



Department for Levelling Up,
Housing & Communities

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Our ref: APP/J0405/W/22/3307860
Your ref: 21/02851/AOP

Sent by email only
katrina.hulse@cushwake.com

30 January 2024

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MINISTRY OF JUSTICE
LAND ADJACENT TO HMP SPRINGHILL AND HMP GRENDON, SPRINGHILL ROAD,
GRENDON UNDERWOOD HP18 0TL
APPLICATION REF: 21/02851/AOP**

This decision was made by the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Lesley Coffey BA(Hons) BTP MRTPI, who held a public local inquiry which opened on 24 January 2023 into your client's appeal against the decision of Buckinghamshire Council to refuse your client's application for planning permission for the construction of a new Category C prison (up to 67,000 sqm GEA) within a secure perimeter fence, together with access, parking, landscaping and associated engineering works on land adjacent to HMP Grendon and HMP Springhill, Grendon Underwood, Edgcott, in accordance with application Ref. 21/02851/AOP, dated 21 June 2021.
2. On 21 December 2022, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to allow the appeal and grant planning permission, subject to the conditions in Annex B of this letter. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

5. On 15 November 2023, the Secretary of State wrote to the main parties to afford them an opportunity to comment on:
 - The 2022 Prison Population Projections, published on 23 February 2023.
 - The 15 November 2023 decision by the Secretary of State for Levelling Up, Housing & Communities in respect of the application by the Ministry of Justice for a Category B prison at land adjacent to HMP Gartree, Welland Avenue, Gartree, Market Harborough, Leicestershire LE16 7RP, appeal reference APP/F2415/W/22/3300227.
 - An email from Greg Smith MP dated 24 October 2023, enclosing submissions from Edgcott and Grendon Underwood Parish Councils to the Justice Select Committee on the current planning appeal.
6. A list of representations received in response to this letter is at Annex A. These representations, and responses to them, were circulated to the main parties. The material above and responses covered a range of issues, including among other matters recruitment and retention of staff; risks to rehabilitation arising from staffing issues and the location of the prison; need and the reliability of the prison projections; differences compared to the HMP Gartree case; and the weight attaching to the benefits of the proposal. The Secretary of State has taken these representations into account when reaching his decision. Conclusions on specific matters are set out below.
7. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and amended on 20 December 2023. The Secretary of State has considered whether it is necessary to refer back to parties for their further comments on the revised Framework. However, he does not consider that the revisions raise new matters which require a reference back to parties in this case. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.
8. A list of other representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case, the development plan consists of Vale of Aylesbury Local Plan 2013-2033 adopted September 2021 (VALP), and Buckinghamshire Minerals and Waste Local Plan 2019 (BMWLP). The Secretary of State considers that relevant development plan policies include those set out at IR4.5-4.6.
11. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance ('the Guidance'), as well as the

material listed at IR4.7-4.13. A revised version of the Framework was published on 19 December 2023 and amended on 20 December 2023.

12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Emerging plan

13. The emerging plan comprises Buckinghamshire Local Plan. Consultation on the Vision and Objectives for Development and Transport for Buckinghamshire finished in June 2023.
14. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the emerging plan is at an early stage, the Secretary of State considers that it carries little weight.

Main issues

Need for the proposed prison

15. For the reasons given at IR12.5.1-12.5.11 and IR12.5.23, the Secretary of State agrees that while there would be a technical surplus of Category C prison places (IR12.5.4), it is reasonable that the number of planned prison places exceeds the actual number of places required in order to provide resilience, particularly given the number of older prisons where a higher proportion may be out of use at any one time (IR12.5.6). He notes the appellant's evidence in its representation of 20 December 2023, stating that on 15 December 2023 the system was operating at 98.4% capacity. He agrees that despite the inherent uncertainty with the modelling put forward by the appellant, and the Council's contention that the 2021 and 2022 projections are unreliable (representation of 6 December 2023), no alternative modelling has been put forward, and it nonetheless represents the best evidence available (IR12.5.9). The Secretary of State has taken into account the evidence submitted by the appellant that there would be a surplus of about 1,000 Category C places nationally, once those places that are projected to come online are available, and agrees with the Inspector that recent growth suggests that the national demand for Category C places is unlikely to exceed the current projection (IR12.5.11).¹ Overall he agrees with the Inspector that the need for the additional accommodation provided by the appeal proposal is not justified on the basis of national need (IR12.5.11).
16. In terms of regional need, the Secretary of State notes that the appeal site lies within the south-central area, and for the purposes of assessing the demand for new prison places has been assessed together with the south-west, London, Kent, Surrey and Sussex probation areas. For the reasons given at IR12.5.12-12.5.21, IR12.5.23, IR12.7.15 and IR12.11.5, the Secretary of State agrees with the Inspector at IR12.5.20 that there is a

¹ He notes that these figures do not include the proposal at HMP Garth & Wymott (IR12.5.11). The inquiry into that proposal is reopening in March 2024, and no final decision has been made on the case. The Secretary of State's previous letter is available at [Recovered appeal: land adjacent to HMP Garth and HMP Wymott, Leyland, Lancashire \(ref: 3295556 - 6 April 2023\) - GOV.UK \(www.gov.uk\)](#)

potential need for about 590 Category C places within the region as a whole, and that the proposed development would help to meet this need, albeit it would also deliver a significant surplus.

17. The Secretary of State has taken into account that as of December 2022 there were around 2,060 Category C men with less than 24 months of their sentence remaining, who had an origin address in the four probation regions the prison would serve but who were being held elsewhere, and this is the cohort who would be held in the new prison (IR12.5.15). He has noted the views of the Parish Councils in their representation of 19 December 2023 that this site 'cannot be considered as local (or accessible) to London, Kent, Surrey, Sussex or the south-west', and the scenario put forward by the Council at IR12.5.18 that given the scale and extent of the region and the fact that the appeal site is located towards its northern boundary, a prisoner could be kept outside of the region in which they live but could be closer to their families than if held within the region. He has further noted the Inspector's view that there was insufficient evidence submitted to the inquiry to understand the extent to which the additional Category C places proposed at this location would be beneficial to Category C prisoners currently held outside of the region, or the extent to which the proposed prison would facilitate family visits (IR12.5.18).
18. Overall, the Secretary of State considers that the need for the additional regional Category C places carries moderate weight in favour of the proposal (IR12.7.15). He has addressed the social and environmental benefits of the scheme at paragraphs 21-22 below.

Sports provision

19. For the reasons given at IR12.6.1-12.6.11, the Secretary of State agrees with the Inspector that while there would be some reduction in quantum by comparison with the area occupied by the existing playing pitch, the proposed replacement facilities would provide an equivalent playing area with the potential for better drainage. He agrees that the proposed replacement sports facilities would deliver an equivalent or better provision for prisoners and staff and that looked at in the round the proposed development would comply with Policy 12 and paragraph 103 (formerly 99) of the Framework (IR12.6.11).

Benefits of the proposed development

20. For the reasons given at IR12.7.4-12.7.14 and IR12.11.3, the Secretary of State agrees with the Inspector that the proposal would provide significant economic benefits in terms of job creation and spend within the local area, and agrees that this carries significant weight (IR12.11.3).
21. For the reasons given at IR12.5.22, IR12.7.2-12.7.3, IR12.7.16 and IR12.11.4, the Secretary of State agrees with the Inspector at IR12.7.16 that the proposed prison would also provide benefits in terms of the standard of accommodation and facilities for staff and prisoners, and that the proposal would deliver safe, secure and modern facilities. As set out at paragraph 17 above, IR12.7.17 and IR12.11.4, he agrees that there is insufficient information to conclude that there would be social benefits from placing prisoners closer to their families (IR12.11.4). Overall he agrees that the social benefits of the proposal carry significant weight (IR12.11.4).
22. For the reasons given at IR12.7.18 and IR12.11.5, the Secretary of State agrees that the prison would be built to a high standard of sustainability, with reductions in carbon

emissions, and 70% reduction in energy use by comparison to the recently completed Five Wells prison. He agrees that this carries moderate weight (IR12.11.15). For the reasons given at IR12.7.19 and IR12.11.5, he considers that the 14% biodiversity net gain (BNG) which would be delivered carries moderate weight.

Transport

23. For the reasons given at IR12.4.1-12.4.30 and IR12.11.8, the Secretary of State agrees with the Inspector at IR12.4.30 that the proposed development would provide a genuine choice of transport modes and would comply with Policy T1 and paragraph 85 of the Framework by improving the sustainability of the site. He further agrees that the site is not well located in terms of sustainable transport, and many staff and visitors would be reliant on the use of private cars, and that the proposal is in conflict with Policy S1 of the VALP and the Framework in this regard (IR12.4.30).
24. For the reasons given at IR12.4.31-12.4.39, the Secretary of State agrees that the proposed development would not give rise to an unacceptable impact on highway safety or have a severe impact on the road network (IR12.4.39). He further considers, for the reasons given at IR12.4.24, IR12.4.37-12.4.38 and IR12.7.20, that the transport benefits for the wider community through the safety improvements at the Broadway/A41 junction and the improvements to the bus service that would be secured by the Unilateral Undertaking carry moderate weight in favour of the proposal.

Alternative sites

25. For the reasons given at IR12.8.1-12.8.3, the Secretary of State agrees with the Inspector that the evidence strongly suggests that there are few, if any, alternatives to the appeal site in the southern region, and that this carries moderate positive weight in the planning balance (IR12.8.3).

Heritage

26. The Secretary of State notes the Inspector's reference to s.72(1) of the LBCA Act at IR4.1 and IR12.2.1. However, as no part of the site is within a conservation area (CA), he does not consider that this section applies in this case.
27. For the reasons given at IR12.2.3-12.2.27 and IR12.2.48-12.2.53, the Secretary of State agrees with the Inspector at IR12.2.100 that the proposal would fail to preserve the settings of Grendon Hall and Lawn House, and that the degree of harm to the significance of these designated heritage assets would be towards the lower end of less than substantial harm. He attributes great weight to this harm. For the reasons given at IR12.2.28-12.2.35, and IR12.2.54-12.2.99, he agrees with the Inspector's assessment at IR12.2.101 that the settings of the listed buildings referred to in that paragraph would be preserved and the character and appearance of the CAs referred to in that paragraph would also be preserved.
28. In line with the heritage balance set out at paragraph 208 (formerly 202) of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the designated heritage assets is outweighed by the public benefits of the proposal. Taking into account the public benefits of the proposal as identified in this decision letter, overall the Secretary of State agrees with the Inspector at IR12.11.6 that the public benefits of the appeal scheme are collectively sufficient to

outbalance the identified 'less than substantial' harm to the significance of Grendon Hall and Lawn House.

29. For the reasons given at IR12.2.36-12.2.47, the Secretary of State agrees with the Inspector at IR12.2.102 that there is a moderate level of harm to North Park, a non-designated heritage asset. He considers that this carries moderate weight in the planning balance, and in line with paragraph 209 (formerly 203) of the Framework has taken this into account in determining the application, making a balanced judgement and having regard to the scale of the harm and the significance of the heritage asset.

Landscape impacts

30. The Secretary of State agrees with the Inspector's conclusions at IR12.3.1-12.3.11. For the reasons given at IR12.3.12-12.3.25, he agrees with the Inspector at IR12.3.25 that there would be moderate harm to landscape character through the loss of the currently undeveloped fields. He agrees that the loss of the buffer between the existing prisons and the nearby Public Rights of Way (PRoWs), and the severance of North Park and the loss of an area of ridge and furrow landscape would add to this harm (IR12.3.25), and that although the proposed development has been designed to minimise the impact on landscape character, it would nonetheless harm the rural character of the surrounding landscape (IR12.3.47). For the reasons given at IR12.3.26-12.3.47, the Secretary of State agrees that the proposal would also give rise to visual harm, particularly in views from the Perry Hill area and the surrounding ProW network. He agrees that although the area affected would be relatively localised, it would have a major adverse impact on visual receptors (IR12.3.47 and IR12.11.9). He agrees that the proposal would fail to comply with Policies NE4 of the VALP, and there would also be some conflict with Policy BE2, due to the operational requirements of the proposed prison (IR12.3.47), and further agrees that the harm to the character and appearance of the landscape carries substantial weight (IR12.11.9).

Recruitment issues

31. The Secretary of State has considered the evidence which was put forward on the question of recruitment, both at inquiry and in the reference back exercise, and has considered the Inspector's analysis at IR12.9.1-12.9.4. The Parish Councils in their representation to the Justice Select Committee and representations of 19 December 2024 and 11 and 12 January 2024 raise longstanding recruitment issues at existing prisons within 40 miles; the potential effect on those other prisons of competition for staff; sustainability; operational risks; employment and wage rates in Buckingham which are higher than the national average; and the risk that forecast capacity will not be able to be achieved. The appellant in its representation of 6 December 2023 acknowledges that recruitment and retention has been a challenge but points to recent good progress in terms of increases in prison officer numbers and pay uplifts. The Secretary of State further notes the Parish Councils' clarification in their representation of 12 January 2023 that their point 'is not that staffing issues in isolation are a reason to withhold planning permission but that they must reduce the weighting attributed to the other material considerations (mainly national need) because of the risk that the forecast capacity will not be able to be achieved'.
32. Overall, the Secretary of State agrees with the Inspector that recruitment issues do not represent a reason for refusing planning permission (IR12.9.4). The Secretary of State has addressed the weighting attached to need, economic benefits and social benefits at paragraphs 15-17, 20 and 21 above.

Other matters

33. For the reasons given at IR12.10.1-12.10.5, the Secretary of State agrees with the Inspector's conclusions on flood risk, pollution, the integrity and connectivity of the PRow network, and the minerals assessment, and agrees that there would be some limited conflict with VALP Policy NE7, due to it not being confirmed that the western parcel of the site does not contain best and most versatile agricultural land (IR12.10.4).
34. The Secretary of State has further taken into account the differences between circumstances in the HMP Gartree case and this proposal, and the representations that have been made on this. He does not consider that this affects the weights he has given to the impacts and benefits in this case.

Planning conditions

35. The Secretary of State had regard to the Inspector's analysis at IR11.1-11.21. the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

36. The Secretary of State has had regard to the Inspector's analysis at IR1.5-1.6, IR10.1-10.11 and IR12.4.18-12.4.24, the Agreement dated 13 February 2023, the Unilateral Undertaking dated 13 February 2023, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR IR10.1-10.11 and IR12.4.18-12.4.24 he agrees with the Inspector's conclusions at IR10.7 and IR10.11 that the obligations comply with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework.

Planning balance and overall conclusion

37. In line with section 38(6) of the PCPA 2004, the Secretary of State has considered whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
38. Weighing in favour of the proposal are the economic benefits which carry significant weight, the social benefits which carry significant weight, the need for the additional regional Category C places which carries moderate weight, benefits arising from building the prison to the high standard of sustainability which carry moderate weight, the delivery of 14% BNG which carries moderate weight, the transport benefits which carry moderate weight, and the lack of alternative sites which carries moderate weight.
39. Weighing against the proposal is the harm to the character and appearance of the landscape which carries substantial weight. The less than substantial harm to the designated heritage assets of Grendon Hall and Lawn House carries great weight, and the harm to the non-designated heritage asset of North Park carries moderate weight. The Secretary of State has found that the balancing exercise under paragraph 208 (formerly 202) of the Framework is favourable to the proposal.
40. For the reasons outlined in this letter, the Secretary of State considers that the appeal scheme is not in accordance with Policies NE4 or S1 of the VALP, and that there is also

some conflict with Policy BE2 of the VALP and limited conflict with Policy NE7 of the VALP. He considers that the proposal is not in accordance with the development plan overall.

41. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.
42. The Secretary of State therefore concludes that the appeal should be allowed and planning permission should be granted, subject to conditions.

Formal decision

43. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission, subject to the conditions set out in Annex B of this decision letter, for planning permission for the construction of a new Category C prison (up to 67,000 sqm GEA) within a secure perimeter fence, together with access, parking, landscaping and associated engineering works on land adjacent to HMP Grendon and HMP Springhill, Grendon Underwood, Edgcott, in accordance with application Ref. 21/02851/AOP, dated 21 June 2021.
44. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

Right to challenge the decision

45. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
46. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
47. A copy of this letter has been sent to Buckinghamshire Council and the Parish Councils, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully,

Maria Stasiak

Decision officer

This decision was made by the Secretary of State, and signed on his behalf

Annex A Schedule of general representations

Party	Date
Rt Hon Alex Chalk MP	11 October 2023
Greg Smith MP	24 October 2023

Representations received in response to the Secretary of State's reference back letter of 15 November 2023

Party	Date
Buckinghamshire Council	6 December 2023
Cushman & Wakefield (on behalf of the appellant)	6 December 2023
Greg Smith MP	7 December 2023

Representations received in response to the Secretary of State's recirculation letter of 11 December 2023

Edgcott and Grendon Underwood Parish Councils	19 December 2023
Buckinghamshire Council	20 December 2023
Cushman & Wakefield	20 December 2023

Representations received in response to the Secretary of State's recirculation letter of 22 December 2023

Edgcott and Grendon Underwood Parish Councils	11 January 2024
Edgcott and Grendon Underwood Parish Councils	12 January 2024
Cushman & Wakefield	12 January 2024
Edgcott and Grendon Underwood Parish Councils	15 January 2024

Annex B List of conditions

General Conditions

1. Approval of the details of the external appearance of the buildings and the landscaping of the site (hereafter called 'the reserved matters') shall be obtained in writing from the Local Planning Authority before the development is commenced.
2. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall only be carried out in accordance with the details contained within the planning application and the hereby approved plan numbers and information:
 - Proposed Block Plan - 441830-0000-PEV-GNX0011-ZZ-DR-A-9013 – Rev P07
 - Proposed Block Plan (Building Heights) - 441830-0000-PEV-GNX0011-ZZ-DR-A-9016 – Rev P03
 - Proposed Block Plan (Parameter Plan) – 441830-0000-PEV-GNX0011-ZZ-DR-A-9017 – Rev P01
 - Block Plan Demolition - 441830-0000-PEV-GNX0011-ZZ-DR-A-9111_P03 – Rev P03
 - Public Right of Way Diversion Plan - 441830-0000-PEV-GNX0011-XX-DR-L-0023 – Rev P05
 - Access Design – Proposed - 441830-0000-ATK-GNX0000-XX-DR-D-0001 – Rev 03
 - Site Location Plan Existing 441830-0000-PEV-GNX0011-ZZ-DR-A-9010-P03
 - Site Block Plan Existing 441830-0000-PEV-GNX0011-ZZ-DR-9011-P03
 - Site Sections Existing 441830-0000-PEV-GNX0011-ZZ-DR-A-9014-P03
 - Proposed Section - 441830-0000-PEV-GNX0011-ZZ-DR-A-9015_P02 – Rev P02
5. The proposed buildings shall not exceed the heights shown on Parameter Plan 441830-0000-PEV-GNX0011-ZZ-DR-A-9017/P01.

Highway Conditions

6. No other part of the development shall commence, until minimum vehicular visibility splays of 2.4m by 79.0m have been provided on both sides of the proposed access, and the area contained within the splays shall be kept free of any obstruction between 0.6m and 2.0m above ground level and maintained as such thereafter.
7. The scheme for parking and manoeuvring indicated on the submitted plans (ref. Proposed Block Plan - 441830-0000-PEV-GNX0011-ZZ-DR-A-9013_rev P07) shall be laid out prior to the initial operational use of the prison hereby permitted and that area shall not thereafter be used for any other purpose.

8. Notwithstanding the cycle parking details shown on the drawings hereby approved (ref. Proposed Block Plan - 441830-0000-PEV-GNX0011-ZZ-DR-A-9013_rev P07), prior to the initial operational use of the prison hereby permitted, details of lit, covered, and secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority. Prior to the operational use of the prison, the cycle parking shall be implemented and it shall thereafter be retained in accordance with the approved details and not used for any other purpose.
9. Details of electric vehicle charging shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the following:
 - At least 10% of the total number of vehicle parking spaces shall be for electric vehicle charging.
 - Dedicated freestanding weatherproof chargers.
 - Each electric vehicle charging bay shall measure at least 3m by 6m.

The electric vehicle charging shall be implemented and be retained in accordance with the approved details prior to the first operational use of the prison and not thereafter be used for any other purpose.

10. Prior to the commencement of any development works on the site, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority, and the approved CTMP shall be adhered to throughout the construction period. The CTMP shall include the following details:
 - Construction access details, temporary or otherwise, and associated traffic management measures, such as temporary warning signage and banksmen (as appropriate);
 - Construction traffic routing, including signage and communication methods, and enforcement measures to ensure the HGV construction traffic route is adhered to;
 - Co-ordination and management of deliveries to avoid multiple deliveries at the same time and spread HGV movements;
 - Delivery hours outside of highway network peak periods;
 - Parking of vehicles of site personnel, operatives, and visitors off the highway to minimise disturbance to residents and ensure parking is contained within appropriate area;
 - Construction Staff Travel Plan;
 - Loading and unloading of plant and materials and storage of plant and materials used in constructing the development off the highway;
 - Erection and maintenance of security hoarding; and
 - Wheel-washing facilities.

Heritage & Landscape Conditions

11. Details of an interpretation board and related signage in relation to the ridge and furrow landscape shall be submitted to and approved in writing by the Local Planning Authority. The boards and related signage shall be installed in accordance with the approved details prior to the commencement of the use of the ports pitch and retained thereafter.

12. No development shall take place above damp proof course, until details of the appearance, boundary treatment and signage of the new access have been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be laid out in accordance with the approved details and retained thereafter and no other changes shall be made to the appearance, boundary treatment or signage of the access. No floodlighting or other form of external lighting shall be installed without express consent from the Local Planning Authority.
13. No development shall take place above damp proof course on the buildings hereby permitted until details of all screen and boundary walls, fences and any other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented. The approved boundary treatment shall thereafter be retained.
14. No development shall take place, unless authorised by the local planning authority, until the applicant, or their agents or successors in title, have undertaken an archaeological earthwork survey of the medieval ridge and furrow remains in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the planning authority.
15. No development shall take place, unless authorised by the local planning authority, until the applicant, or their agents or successors in title, have undertaken archaeological evaluation in form of a geophysical survey and trial trenching in accordance with a written scheme of investigation, excluding the area of ridge and furrow to be retained, which has been submitted by the applicant and approved in writing by the planning authority. Where significant archaeological remains are confirmed these would be preserved in situ where possible.
16. Where significant archaeological remains are confirmed and can be preserved in situ, no development shall take place until the applicant, or their agents or successors in title, have provided an appropriate methodology for their preservation in situ which has been submitted by the applicant and approved in writing by the planning authority.
17. Where archaeological remains are recorded by evaluation and would not be preserved in situ no development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the planning authority.
18. Any reserved matters application for landscaping submitted pursuant to Condition 1, shall include full details of both hard and soft landscape works. For hard landscape works, these details shall include; proposed finished levels or contours; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials. For soft landscape works, these details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.

19. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.
20. Prior to the commencement of works, all the existing trees/bushes/hedges to be retained shall be protected and the approved works undertaken in accordance with the measures submitted Arboricultural Impact Assessment and Method Statement (Tyler Grange, 2021).

Sports Pitch Provision Conditions

21. Prior to commencement of development of the new/re-provided playing pitch, a detailed scheme for this pitch, the running track and replacement gym equipment shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include a detailed assessment of ground conditions of the new/re-provided playing pitch (including drainage and topography) to ensure the new pitch is provided to an acceptable quality.
22. The new/re-provided playing pitch shall be made available for use prior to the commencement of development on the existing playing field, and retained thereafter in accordance with the approved details and not used for any other purpose.
23. Prior to the initial operational use of the prison, the running track and replacement gym equipment shall be provided.

Ecology Conditions

24. The development shall be implemented in accordance with the recommendations detailed in Black Hairstreak Butterfly Survey from Ramboll, dated August 2022, Bat survey from Ramboll, dated November 2022, and the Ecological Impact Assessment from Ramboll dated June 2021.
25. No development shall take place (including demolition, ground works, vegetation clearance) until the Landscape and Ecological Management Plan (LEcMP) has been submitted to and approved in writing by the local planning authority. The content of the LEcMP shall include the following:
 - a. Description and evaluation of features to be managed;
 - b. Ecological trends and constraints on site that might influence management;
 - c. Aims and objectives of management which will include the provision of biodiversity net gain within the site as shown within the Biodiversity Gain Plan;
 - d. Appropriate management options for achieving aims and objectives;
 - e. Prescriptions for management actions;
 - f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period);
 - g. Details of the body or organization responsible for implementation of the plan; and
 - h. Ongoing monitoring and remedial measures.

26. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of “biodiversity protection zones”;
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d. The location and timing of sensitive works to avoid harm to biodiversity features
- e. The times during construction when specialist ecologists need to be present on site to oversee works;
- f. Responsible persons and lines of communication;
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- h. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

27. Before any construction works hereby approved are commenced, a revised Biodiversity Net Gain Report and associated Biodiversity Metric demonstrating that Biodiversity Net Gain can be achieved on site, shall be submitted to, and approved in writing by the Local Planning Authority. The Biodiversity Net Gain Report should adhere to best practice and include:

- a. Summary of key points;
- b. Introduction to the site, project, planning status, certainty of design and assumptions made, the aims and scope of the study and relevant policy and legislation;
- c. Methods taken at each stage; desk study, approach to Biodiversity Net Gain and evidence of technical competence;
- d. Baseline conditions of the site including; important ecological features and their influence on deliverability of Biodiversity Net Gain, baseline metric calculations and justifying evidence, and a baseline habitat plan that clearly shows each habitat type and the areas in hectares;
- e. Justification of how each of the Biodiversity Net Gain Good Practice Principles has been applied;
- f. Proposed Design to include a proposed habitat plan and details of what will be created. This can be taken from the site layout plan, illustrative masterplan, green infrastructure plan or landscape plans. The plan should clearly show what existing habitat is being retained and what new habitat will be created. It should be easy to identify the different habitat types and show the areas in hectares of each habitat or habitat parcel;
- g. Biodiversity Metric spreadsheet, submitted in excel form that can be cross referenced with the appropriate plans;
- h. Implementation Plan including a timetable for implementation; and
- i. Biodiversity Net Gain Management and Monitoring Plan.

28. No development shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy has been submitted to, and

approved in writing by, the Local Planning Authority. The purpose of the strategy shall be to report to the Local Planning Authority on progress towards achieving Biodiversity Net Gain. The content of the Strategy shall include the following:

- a. Aims and objectives of monitoring to match the stated purpose;
- b. Identification of adequate baseline conditions prior to the start of development;
- c. Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged;
- d. Methods for data gathering and analysis;
- e. Location of monitoring;
- f. Timing and duration of monitoring;
- g. Responsible persons and lines of communication; and
- h. Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

29. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's organisational licence (WML-OR112) and with the proposals detailed on plan "Grendon Springhill 2: Impact Plan for great crested newt district licensing" (Version 2) dated 7th December 2021.
30. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved in writing by the Local Planning Authority and the local authority has provided authorisation for the development to proceed under the district newt licence.
31. No development hereby permitted shall take place except in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR112 and in addition in compliance with the following:
 - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
 - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).
 - Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.
 - The recommendations in report "Grendon Springhill 2 District Licence HMMP" Version 1 dated the 29th of October 2021 and on plan "Grendon Springhill 2 – Retained habitats plan" (Version 1) dated the 29th of October 2021 provided as part of the planning application must be complied with.

Contamination Conditions

32. Development shall not commence until:

- a. Additional site investigation works targeting any proposed soft landscaping which appears to be within or close to the inferred location of the former ponds and demolished buildings along the northern part of the site as recommended within the Combined Geotechnical and Ground Contamination Risk Assessment, reference: R14484, written by Ashdown Site Investigation Limited, has been submitted to and approved in writing by the Local Planning Authority. This must include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- b. A site investigation report detailing all additional investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to any remediation works commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

The agreed remediation works shall be fully remediation works shall be fully completed before any other construction work commences.

Air Quality & Noise Conditions

33. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of how potential impacts of noise, vibration and dust will be managed during construction. The plan shall indicate proposed hours of operation for construction activities that have potential to cause nuisance to nearby residents. The plan shall include details of any proposed complaints management process so that complaints can be dealt with promptly and effectively.
34. Notwithstanding the recommendations of the Noise and Vibration Impact Assessment submitted, prior to the initial operational use of the prison hereby permitted, a scheme for the protection of occupants of Lawn House from noise arising from the access road shall be submitted and approved in writing by the Local Planning Authority. The agreed scheme shall be provided prior to the initial operational use of the prison in accordance with the approved details and shall thereafter be permanently retained as such.
35. Notwithstanding recommendations of the Noise and Vibration Impact Assessment submitted, prior to the initial operational use of the prison hereby permitted, a scheme for the protection of occupants of Springhill Road from noise arising from the playing pitch shall be submitted and approved in writing by the Local Planning Authority. The agreed scheme shall be provided prior to the initial operational use of the prison in accordance with the approved details and shall thereafter be permanently retained as such.

36. No development shall take place until a Piling Method Statement to protect the occupants of Lawn House has been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved Statement.
37. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before initial operational use of the prison. The scheme shall also include:
- a. Assessment of SuDS components as listed in the CIRIA SuDS Manual (C753) and provide justification for exclusion if necessary;
 - b. Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components;
 - c. Discharge rates to be limited to a total runoff rate of 38.7l/s or less as calculated using FEH methods;
 - d. Ground investigations including:
 - i. Infiltration in accordance with BRE365
 - ii. Groundwater level monitoring over the winter period;
 - e. In the event that infiltration is not viable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to the drainage hierarchy as outlined in paragraph 080 of the Planning Practice Guidance;
 - f. Full construction details of all SuDS components;
 - g. Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components;
 - h. Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site; and
 - i. Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.

Other Conditions

38. Prior to the commencement of the development hereby approved, details of the proposed slab levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land, with reference to a fixed datum point shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
39. Notwithstanding the development hereby approved, no development shall take place above damp proof course on the building(s) hereby permitted until details have been submitted to and approved in writing by the Local Planning Authority demonstrating the measures that will be taken to improve energy efficiency and building sustainability in accordance with the Energy and Sustainability Statement (Mace,

2021) submitted with the application. The development shall subsequently be implemented in accordance with the approved details.

40. Prior to the initial operational use of the prison hereby approved, a lighting design strategy for all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a. Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
- b. Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, location, height, type and direction of light sources and intensity of illumination); and
- c. Demonstrate that areas to be lit will not disturb or prevent species using their territory or having access to their breeding sites and resting places.

No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy and shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.



Report to the Secretary of State

by Lesley Coffey BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

5 June 2023

TOWN & COUNTRY PLANNING ACT 1990

BUCKINGHAMSHIRE COUNCIL

**APPEAL BY
MINISTRY OF JUSTICE**

**PROPOSED DEVELOPMENT AT
LAND ADJACENT TO HMP SPRINGHILL AND HMP GRENDON,
SPRINGHILL ROAD, GRENDON UNDERWOOD HP18 0TL**

Inquiry Opened on 24 January 2023

File Ref: APP/J0405/W/22/3307860

ABBREVIATIONS

AOD	Above Ordnance Datum
AONB	Area of Outstanding Natural Beauty
BCLTP	Buckinghamshire Local Transport Plan
BGT	Buckinghamshire Gardens Trust
BNG	Biodiversity Net Gain
BREAAM	Building Research Establishment Environmental Assessment Method
CAA	Conservation Area Appraisal
CMC	Case Management Conference
CNA	Certified Normal Accommodation
EIA	Environmental Impact Assessment
EWR	East West Rail
Framework	National Planning Policy Framework
GII	Grade II listed building
GPA3	The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) (December 2017)
HMPPS	His Majesty's Prison and Probation Service
IMB	Independent Monitoring Board
KPI	Key Performance Indicator
LCA	Landscape Character Area
LCT	Landscape Character Type
LVIA	Landscape and Visual Impact Assessment
MoD	Ministry of Defence
MoJ	Ministry of Justice
MUGA	Multi Use Games Areas
NDHA	Non designated Heritage Asset
NPPF	National Planning Policy Framework
PBA	Peter Brett Associates
PPG	Planning Practice Guidance
PROW	Public Right of Way
RPG	Registered Park and Garden
SoCG	Statement of Common Ground
SPD	Supplementary Planning Document
SuDS	Sustainable Drainage System
TfB	Transport for Buckinghamshire
TGN	Technical Guidance Note
UU	Unilateral Undertaking
VALP	Vale of Aylesbury Local Plan
XX	Cross Examination
ZTV	Zone of Theoretical Visibility

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File Ref: APP/J0405/W/22/3307860

LAND ADJACENT TO HMP SPRINGHILL AND HMP GRENDON, SPRINGHILL ROAD, GRENDON UNDERWOOD HP18 0TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Ministry of Justice against the decision of Buckinghamshire Council.
- The application Ref 21/02851/AOP, dated 21 June 2021, was refused by notice dated 29 March 2022.
- The development proposed is [the construction of a new Category C prison (up to 67,000 sqm GEA) within a secure perimeter fence together with access, parking, landscaping and associated engineering works on land adjacent to HMP Grendon and HMP Springhill, Grendon Underwood, Edgcott.

Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions

1.0 Procedural Matters

- 1.1 The Inquiry opened on 24 January 2023 and sat for 8 days. I carried out an accompanied site visit to HMP Grendon and HMP Springhill on 24 January 2023, and an accompanied visit to HMP Fosse Way on 7 February 2023. I viewed HMP Five Ways, Wellingborough from the surrounding area during the evening of 6 February 2023. I also carried out a number of unaccompanied site visits to the wider area, including HMP Springhill, the Waddeson Conservation Area, Wotton Conservation Area, Ludgershall Conservation Area and Quanton Conservation Area. In addition, I visited various viewpoints identified by the parties and Grendon Underwood Parish Council.
- 1.2 The appeal was recovered by the Secretary of State, by letter dated 21 December 2022, in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990. The reason for this direction is that the proposal is for a development of major importance having more than local significance, and against which another Government department has raised major objections or has a major interest.
- 1.3 The application is submitted in outline with access, scale and layout for determination and landscape and appearance as reserved matters.
- 1.4 I held a Case Management Conference (CMC) on 21 November 2022. The procedure for the Inquiry and the timetable for the submission of documents were discussed at the meeting. The likely main issues and the Inquiry programme were also discussed.

Planning Obligations and Conditions

- 1.5 An Agreement under Section 106 of the Town and Country Planning Act 1990 was submitted to the Inquiry. This was discussed at a roundtable session

and a number of changes were agreed between the parties.¹ An executed copy dated 13 February 2023 was submitted following the close of the Inquiry. The planning agreement addressed the maintenance of the (Sustainable Drainage System) SuDS, the Highway Works Delivery Programme provisions, and the Travel Plan Obligations. I return to this matter at Section 10.

- 1.6 The appellants also submitted a Unilateral Undertaking (UU) to the Inquiry. This covenanted to provide a financial contribution towards the provision of additional bus services.² An executed copy dated 13 February was submitted following the close of the Inquiry. I return to this matter at Section 10.

Reasons for Refusal

- 1.7 There were 8 reasons for refusal. These are set out in full in the Statement of Common Ground (SoCG).³ A copy of the decision notice can be found at CD/A65. Following the receipt of additional information, the Council advised that it no longer pursued reasons for refusal 4 and 6. These related to the provision of Biodiversity Net Gain (BNG) and the potential impact of the proposed development on bats and the black hair-streaked butterfly. In the light of additional information submitted by the appellant prior to the commencement of the Inquiry, the Council was satisfied that BNG and any necessary mitigation could be secured by way of appropriately worded conditions.⁴ I agree with this assessment and have considered the appeal accordingly.

- 1.8 In summary the remaining reasons for refusal are:

- Due to the location of the site, it is likely to be reliant on the use of private vehicles contrary to local and national transport policy.
- The layout, scale, massing and light pollution of the proposed development would result in adverse landscape and visual impacts on the site and would be harmful to the countryside, agricultural and parkland character of the wider area, including the setting of other nearby heritage assets. The failure to provide clear and convincing justification that this is the only site for the development of the new prison. Without this the less than substantial harm is not outweighed by the public benefits.
- The proposed development would result in the total loss of a large section of the North Park (a non-designated heritage asset) including loss of ridge and furrow. It would also negatively impact the setting of the Grade II Grendon Hall and the Grade II Gates and Piers due to the loss of designed views from both assets and through the introduction of a competing entrance to the Park/ Hall.
- The proposed development would result in a significant intrusion into open countryside and would have an urbanising impact on this rural location and

¹ INQ 29

² INQ 30

³ INQ 24

⁴ INQ 24 paragraphs 6.19 – 6.21

would give rise to harmful effects on the character of this area. The limited potential for mitigation would result in an intrusive form of development which is highly visible from within the site and long-distance views.

- The proposed development has failed to demonstrate that the playing field to be lost would be replaced by an equivalent or better provision in terms of quality and quantity in a suitable location.
- 1.9 The final reason for refusal relates to the absence of planning obligations to secure appropriate financial contributions towards highway and transport improvements. As referred to above the appellant has submitted a Planning Agreement and UU taking in relation to these matters. These are discussed at Section 10 below.
- 1.10 Since the application was considered by the Council, the appellant has reviewed the landscape plan, the lighting plan and the BNG plan with a view to reducing the potential impacts on ecology, heritage and landscape. The key changes and additional information submitted since the date of the Council's decision are set out at INQ 15. These include a revised BNG assessment, a butterfly survey, a bat survey and a number of amendments to the layout of North Park to reduce the heritage and landscape harm arising from the proposed development.
- 1.11 As agreed at the Inquiry the proposed lighting plan is not for determination at the present time and could be addressed by way of a condition. Similarly, the acoustic fence shown on the plans is for illustrative purposes only and the need for, and extent of a fence in the locations shown can be reviewed and secured by conditions.
- 1.12 During the Inquiry it was confirmed that the parkland associated with Grendon Hall, excluding the 7 Ha occupied by the Springhill Estate is to be added to the local list. It therefore remains a non-designated heritage asset.

2.0 The Appeal site and its surroundings

- 2.1 The appeal site adjoins HMP Grendon a purpose-built Category B Training Prison and HMP Springhill a Category D men's open prison developed on a piecemeal basis around Grendon Hall (Grade II listed). The existing Springhill and Grendon Prisons are located to the south and east of the village of Edgcott and to the north of Grendon Underwood. The prisons complex has grown up around Grendon Hall, a listed building, historically set within pleasure grounds and a parkland.
- 2.2 Grendon Hall is a Grade II listed building and dates from about 1880. It is a red brick house with stables and service buildings to the rear. The principal elevations are the front elevation that faces towards the south and the western elevation. To the front of the Hall are formal terraced lawns enclosed by specimen trees. Grendon Hall occupies the highest point within the landscape. It is now situated on the western edge of the built form associated with the prison.
- 2.3 The surrounding land was formerly defined as a park, entered via gates and a lodge to the west (now Springfield Road). The Hall and the surrounding

parkland can be divided into three distinct areas: the pleasure gardens, the North Park and the South Park. The pleasure gardens have been eroded due to the buildings erected whilst the site was occupied by the Ministry of Defence (MoD) and more recently Springhill Prison. As a consequence, the remains of the pleasure gardens comprise the southern section to the front and west of the Hall. This area is largely enclosed by specimen trees to the south.

- 2.4 The North and South Park sit either side of the driveway that leads from the ornamental gates and piers (Grade II listed) to Grendon Hall. The North Park occupies the remaining area to the north and west of the driveway and includes some agricultural land which is not within the MoJ's ownership. The landscape remains pastoral in appearance and the area to the west is characterised by a ridge and furrow landscape.
- 2.5 The much larger South Park includes the housing at Park Road/Springhill Road, ancillary prison buildings and car parking. Whilst the rural landscape beyond is visible between the buildings, the built development dominates in views from the main driveway.
- 2.6 HMP Springhill extends to the east and northeast of Grendon Hall. It occupies some of the original ancillary buildings such as the stables, and includes numerous single storey prefabricated buildings that appear to date from the 1940's. There are also several larger prison buildings towards the north-western boundary of HMP Springhill, including a large building used as a gymnasium and some accommodation blocks.⁵ The sports pitch and ecological area are located further to the north.
- 2.7 HMP Grendon is larger in scale and is surrounded by a 5 metre high boundary. The buildings within it are significantly larger in scale than HMP Springhill.
- 2.8 The appeal site is located to the west, north and east of existing buildings within the SpringHill and Grendon Prisons. Most of the site is within the existing prisons estate, but the northern half of the eastern part is currently part of an adjacent arable field.
- 2.9 The site broadly comprises three distinct areas of land. The northern parcel comprises land currently used by HMP Springhill and includes a pond, woodland area, football pitch and education block. The northern parcel is divided across its centre by a double tree line running along a ridge line.
- 2.10 The western parcel lies adjacent to the existing access road that serves HMP Grendon, HMP Springhill and the residential area at Park Road and Springhill Road. It comprises an area of grassland divided by a low fence and a line of trees and the eastern end comprises an area of grassland on sloping ground. It includes land that forms part of the North Park associated with the Grendon

⁵ The gymnasium building was referred to as a workshop building by several witnesses.

Hall Grade II listed building. There are two existing Public Rights of Way (PRoW) which pass through the site (GUN/17/1 and GUN/16/1).



- 2.11 The eastern part contains grass fields divided by hedges and fencing. The eastern parcel is adjacent to HMP Grendon and is relatively flat area.
- 2.12 The northern parcel is located directly north of HMP Springhill and directly north and east of HMP Grendon (which comprises amongst other built elements, 3-4 storey prison houseblocks). Topographically, this area of the appeal site slopes down from a localised high point of about 90m AOD, 76m AOD along its eastern extent and 83m AOD along its western extent.
- 2.13 The western area of the appeal site, this part of the site comprises two field parcels defined to the north by a mature tree belt, to the west by Grendon Road, to the south by a line of trees along the existing access road to HMP Springhill and HMP Grendon, and to the east by mature vegetation associated with the western extent of the HMP Springhill, including the Grade II listed Grendon Hall. The two field parcels are separated by a mature hedgerow.
- 2.14 The appeal site is located about 6 miles east of Bicester and 10 miles north-west of Aylesbury. The linear village of Edgcott lies approximately 200m to

the west on the Grendon Road/Buckingham Road. The larger settlement of Grendon Underwood lies just under a mile to the south on the same road corridor. Whilst access is via local roads, these have good links with the A41, the main road link between the towns of Bicester and Aylesbury.

- 2.15 The prisons are served by bus from Aylesbury bus station which stops on Grendon Road at the foot of the access road, about 10 minutes walk from the prison (service nos. 16 and 17). The nearest rail stations are Bicester Village Station (trains to and from Oxford), Bicester North Station (trains to and from London Marylebone) and Aylesbury Station (trains to and from London Marylebone).
- 2.16 There are a number of heritage assets within the surrounding area, including listed buildings, Grendon Underwood Conservation Area, and a number of other Conservation Areas within the wider area.
- 2.17 To the north-east of the site is the Calvert landfill but landfilling operations are not generally visible from the landscape immediately surrounding the site. Due east is the Greatmoor Energy from Waste plant.

3.0 The Proposal

- 3.1 The proposal is for a Category C resettlement prison. Although the layout is not for determination at this stage, the illustrative layout has been developed in accordance with Prison Service guidelines in order to provide the necessary level of security for a Category C prison. The layout also represents the need for certain minimum separation distances between buildings.
- 3.2 The appeal proposals provide for six new house blocks of a maximum of four storeys in height to accommodate up to 1,468 prisoners, with other buildings at 1 to 3 storeys in height. The overall heights range from 9.5m to 17.5m. The AOD heights of the existing and proposed buildings are shown on MB Figure 11.⁶
- 3.3 Supporting development includes a Care and Separation Unit, Central Services Hub, Kitchen, Workshop, Support building, Entrance Resource Hub and Kennels. There would also be car parking for about 453 spaces (374 staff, 57 visitor and 23 disabled) and cycle parking.
- 3.4 The main buildings to house the new accommodation would be located to the north and east of the existing prisons area. The new prison secure compound would be located on the eastern slope of the ridge, around the existing Category B prison. It would be enclosed by a secure perimeter fence about 5 metres in height. The proposed house blocks would be located on the western parcel of land, which is also the lowest point of the site. They will be surrounded by a landscaped area comprising Multi Use Games Areas, exercise areas, quiet gardens and a horticultural and polytunnel area.
- 3.5 The new vehicular access on to Grendon Road, a classified C road, is capable of accepting up to 16.5m long articulated vehicles with 2.4m x 80m visibility

⁶ CD/F2 Appendices

splays. The road is to be positioned broadly in the location of the avenue of trees, denoting the boundary between two fields in the 'North Park.'

- 3.6 The existing HMP Springhill football pitch and exercise area will be relocated to the western parcel. This area would include a football pitch, with a running track and outdoor gym. This is proposed to replace the existing provisions which are currently located towards the west of the northern parcel that is proposed to accommodate the car parking. The floodlights previously proposed in relation to the sports pitch are no longer part of the proposals. This area would also accommodate the SuDS pond.
- 3.7 The Energy and Sustainability Statement submitted in support of the appeal proposal confirms the MoJ's sustainability aspirations for new prisons, including targeting near zero carbon operations, a minimum of 10% BN, and at least BREEAM 'excellent' certification, with endeavours to achieving BREEAM 'outstanding'⁷.



LAYOUT OF PROPOSED PRISON

⁷ CD/A14

4.0 Policy Context

The Planning (Listed Building and Conservation Area) Act 1990

- 4.1 The statutory provision relevant as set out at 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires the decision maker to pay special regard to the desirability of preserving, amongst other things, the listed building and its setting.

The National Planning Policy Framework (The NPPF)

- 4.2 The NPPF is a material consideration in respect of this appeal. It confirms the presumption in favour of sustainable development. Sustainable development has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways.
- 4.3 The NPPF includes a number of policies relevant to the proposed development. These include:
- The faster delivery of public service infrastructure, including criminal justice accommodation (paragraph 96). Safeguarding existing open space, and land, including playing fields (paragraph 99). Protecting and enhancing public rights of way and access (paragraph 100)
 - Promoting the use of sustainable transport, including walking, cycling and public transport (paragraph 104). It states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health (paragraph 105).
 - Conserve and enhance the natural environment and recognising the intrinsic character and beauty of the countryside and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (paragraph 174).
 - Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation (paragraph 185).
 - When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. (paragraphs 199 and 200).

The Development Plan

- 4.4 The development plan includes the Vale of Aylesbury Local Plan 2013-2033 (VALP) adopted September 2021, and the Buckinghamshire Minerals and Waste Local Plan 2019.⁸
- 4.5 The most relevant VALP policies in relation to this appeal are S1 Sustainable development for Aylesbury Vale, S2 the Spatial Strategy for growth, T1 Delivering the sustainable transport vision, BE1 Heritage Assets, BE2 Design of new development, NE1 Biodiversity and geodiversity, NE4 Landscape character and locally important landscape, NE5 Pollution, air quality and contaminated land, NE7 Best and most versatile agricultural land and I2 Sports and recreation.
- 4.6 Policy 1: Safeguarding Mineral Resources of the Buckinghamshire Minerals and Waste Local Plan is also relevant.
- 4.7 The Biodiversity Net Gain Supplementary Planning Document and Sports and Leisure facilities Supplementary Planning Document (SPD) are also material considerations.

Other relevant policies and guidance

- 4.8 Buckinghamshire Council Local Transport Plan (BCLTP) (adopted April 2016) covers the period up to 2036 and sets out a high level approach to transport in Buckinghamshire.⁹ Its objectives are:
- provide a well-connected, efficient and reliable transport network;
 - secure good road, public transport, cycle and walking infrastructure and service provision;
 - allow residents to improve their quality of life and health by promoting sustainable transport travel choices and access to opportunities that improve health; and
 - allow everyone to access education, work and the social opportunities they need to grow.
- 4.9 Policy 10 seeks to improve the environment by encouraging more sustainable travel choices and reducing air and noise pollution. Policy 12 seeks to encourage walking as the best option for short journeys, whilst Policy 13 seeks to encourage cycling and the development of the cycling network.
- 4.10 Buckinghamshire Council Highways Development Management Guidance Document (adopted July 2018) it is aligned with the objectives of the BCLTP and provides a high level vision for new developments in Buckinghamshire.¹⁰ Amongst other matters development should minimise its transport impact,

⁸ CD/I1& CD/I2

⁹ CD/H9

¹⁰ CD/H10

reduce the need for single occupancy car travel by encouraging walking, cycling and public transport use and provide safe and suitable access for all means of transport and all members of the community.

- 4.11 Sport England's Playing Field Policy opposes the granting of planning permission for any development that would lead to the loss of, or prejudice the use of, all or any part of, a playing field unless it meets with a number of specific exceptions.¹¹
- 4.12 *The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition)* (GPA3) sets out guidance, against the background of the NPPF and the related guidance given in the Planning Practice Guidance (PPG), on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes.
- 4.13 It provides guidance in relation to setting and significance. It recommends that the significance of any heritage asset that may be affected by a proposal, should be assessed using a stepped approach.

5.0 Matters Agreed

- 5.1 Buckinghamshire Council and the Ministry of Justice (MoJ) submitted an overarching SoCG that was updated during the course of the Inquiry. The final version was submitted shortly before the close of the Inquiry.¹² A separate SoCG in relation to landscape matters was also submitted.
- 5.2 In relation to highways and access it is agreed that the traffic surveys provide a suitable baseline against which to assess the impacts of the proposed development, and that the proposed trip generation within the submitted Transport Assessment is acceptable. The proposed vehicular access to the new prison is acceptable in highway safety and capacity terms and the quantum of proposed car parking is sufficient to satisfy demand from the proposed development. It is agreed that the proposed development would give rise to a junction capacity issue at the A41/Broadway junction, requiring mitigation, but that this could be suitably mitigated by way of a junction improvement scheme.
- 5.3 In relation to ecology, it is agreed that the submitted information is sufficient to demonstrate that the proposal would provide a BNG in accordance with Policy NE1 of the VALP and paragraphs 174 and 180 of the NPPF. It is also agreed that sufficient information has been submitted regarding species specific assessments and mitigation relating to Bats and Black Hair Streak

¹¹ CD/H15

¹² INQ 20

butterflies in accordance with Policy NE1 of the VALP and paragraph 180 of the NPPF.

- 5.4 A Minerals Assessment has been submitted.¹³ It is agreed there is no conflict with Policy 1 of the Buckinghamshire Minerals and Waste Local Plan (mineral safeguarding).
- 5.5 In terms of landscape, it is agreed that the site is predominantly greenfield, comprising agricultural land and playing fields and parkland associated with the Grade II listed Grendon Hall. The site is surrounded by open countryside in agricultural production except to the immediate south where it adjoins the existing prisons complex of HMP Grendon and HMP Springhill and the residential area of Spring Hill. The village of Edgcott is separated from the site by open fields.
- 5.6 The appeal site is not subject to any national or local landscape designations and does not comprise a valued landscape for the purposes of paragraph 174 (a) of the NPPF.
- 5.7 The locations of viewpoints set out in the Landscape and Visual Impact Assessment (LVIA) were agreed as far as was practicable with the Landscape Officer. The viewpoints set out in the topic-specific Landscape and Visual Matters SoCG (CD/C13) are considered representative of views of the site for the purposes of visual impact assessment.

6.0 The Case for the Ministry of Justice

- 6.1 This summary contains all material points in relation to the appellant's case and it is substantially based upon the closing submissions of the appellant.¹⁴ It is also taken from the evidence given on behalf of the appellant and from other documents submitted to the Inquiry.
- 6.2 The proposal seeks to meet a pressing national need for new Category C Resettlement places which includes a specific regional need in the South East of England. The current prison system faces several serious issues, and there is an imperative need for the development of additional, better designed, prison places.
- 6.3 The current prison estate is operating close to operational capacity and His Majesty's Prison and Probation Service (HMPPS) has taken exceptional measures to prepare for the risk that it runs out of places such as activating Operational Safeguard.¹⁵ The total prison population is forecast to increase to a record high of 98,500 by March 2026. Although the national projected growth in Category C resettlement places to July 2026 would remain below the total operational capacity there is a real risk that those projections will be exceeded either by 2026 or some point not long after. Even if they are not, the acute pressure currently experienced in the prison system fundamentally impacts the MoJ's ability to protect the public from offenders, to deliver

¹³ CD/G10

¹⁴ INQ 35

¹⁵ Calculated on the basis of the maximum crowded capacity of each cell in the system

effective rehabilitation, and harms public confidence in the criminal justice system. This has led to prisoners being held in crowded conditions, or in the wrong category of prison, and has previously resulted in the early release of prisoners.

- 6.4 There is significant projected demand for prison places in the South of England. In addition to the modelled capacity gap of 590 category C places in July 2026 there is a large group of prisoners (around 2,060) currently being held in prisons outside their home region. Prisoners need to be held closer to home in order to help prepare for their release and resettlement into their community.¹⁶
- 6.5 Much of the current national prison estate was built in the Victorian era. The age and design of these buildings makes running modern prison regimes within them difficult. The provision of a new prison to modern standards will give rise to significant improvements in outcomes for prisoners and HMPPS alike.
- 6.6 In a recent 'minded to' letter from the Secretary of State in relation to another prison promoted under the New Prisons Programme (at Land adjacent to HMP Garth and HMP Wymott) the need for new prisons was given significant weight.¹⁷
- 6.7 The proposal has been designed to adjoin the existing prisons of HMP Grendon and HMP Springhill. This places it outside of existing settlement boundaries (with consequences in transport sustainability terms) but limits its impacts by placing it in a context which is already significantly influenced by existing prisons. The proposal stands to be assessed on its own merits and it is not a case where either policy or principle requires a consideration of alternative sites.¹⁸ However, it is also the case that there is no other realistic alternative site which could meet the emerging deficit within the timescales required. The choice of this location resulted from a detailed site appraisal process, looking at both public and private owned options, by which the site was chosen as an appropriate and feasible location for the proposal. This is a factor which adds weight to the benefits of the scheme.

Transport and Sustainability

- 6.8 The site is in a countryside location but is well located for the A41. Bus routes 16 and 17 serve the appeal site and provide access to Aylesbury train station, but they do not allow uniformed officers to access the site for their shifts and provide only a limited offer for non-uniformed staff. Opportunities are

¹⁶ CD/E2 paragraphs 2.11 & 4.14

¹⁷ INQ 7 DL21

¹⁸ See e.g. *Trusthouse Forte Hotels Ltd v Secretary of State* (1987) 53 P. & C.R. 293, *Derbyshire Dales DC v Secretary of State* [2010] 1 P. & C.R. 19 and *R (Langley Park School for Girls Governors) v Bromley LBC* [2010] 1 P. & C.R. 10.

available for visitors to access the site by bus and rail. Cycling and some walking opportunities are available in the immediate area.¹⁹

6.9 The proposed development complies with

- NPPF 110 which requires that “*appropriate opportunities to promote sustainable transport modes can be – or have been – taken up given the type of development and its location*”
- NPPF 105 which looks to encourage the planning system to focus significant development on locations which are “*or can be made sustainable*” including by offering a “*genuine choice of transport modes*”, acknowledging that “*opportunities to maximise sustainable transport solutions will vary between urban and rural areas*”
- The AVLP policies which reflect this, including S1 and T1.

6.10 The mitigation proposed in sustainability terms has been developed in consultation with the Council as Local Highway Authority. It includes:

- Bus stop improvements including the implementation of real time passenger information. This will improve connections to bus services, and would benefit the wider area including existing prisons.
- Bus service improvements in the form of a 5 year contribution totalling £485,000. The use of these has been discussed with Red Rose Travel who are open to working with the appellant to explore ways the 16 and/or 17 route and timetable could be improved.²⁰ A schematic representation of the extra number 16 services which could be provided is attached at Appendix D of Mr Carter’s Proof.²¹
- The Travel Plan which will include a Travel Plan Coordinator to promote measures to minimise car use.

6.11 As Mr Thistlethwaite accepted, the measures would encourage the shift towards public transport. This would both improve the accessibility of the proposed development and secure benefits by improving the position for the local area including the neighbouring prisons.

6.12 As confirmed by the SoCG the Council does not allege that the proposed development would give rise to a severe impact on the network or unacceptable safety risk.²² Mitigation relied upon to secure this conclusion comprises:

- The A41 / The Broadway improvement scheme – which addresses capacity and safety impacts. The scheme is secured as an approved drawing, and also in the Section 106 Agreement as part of the highway works package.
- The construction traffic management plan, which will mitigate construction impacts.

¹⁹ CD/E5 Tables 5-1, 5-2 and 5-3

²⁰ CD/E5 5.4.4

²¹ CD/E5 Appendix D

²² INQ 20 Paragraphs 6.2-6.9

- 6.13 The source for accident data, obtained by Councillor Harper was slightly different to that relied on by Mr Carter, but overlapped at least in part spatially and temporally. This overlap showed that the two data sets were not inconsistent. Mr Carter's broader judgement was that the new data did not affect his conclusion that the proposal did not give rise to safety concerns.²³

Heritage

- 6.14 The Proposed Development would not give rise to any physical works to any designated asset – the only asset directly affected is the North Park, a Non-Designated Heritage Asset (NDHA). The majority of the impacts at issue are impacts arising from development in the setting of listed assets, including Grendon Hall, Lower Farm and the Gate Piers.
- 6.15 Setting is not itself a heritage asset. Historic England's GPA3 advises that experts and decision-makers take a stepped approach to the identification of impact.²⁴
- 6.16 The correct approach is to:
- Identify the assets, and why they are architecturally, historically, or evidentially significant (Step 1)
 - Assess the contribution which setting makes to that significance either directly or to its appreciation (Step 2)
 - Identify the aspect of significance which the development affects, and thereby understand how the effect on that aspect of significance affects the significance of the asset as a whole (Step 3)

This approach allows heritage impact to be assessed by reference to the impact which the development would have on the significance of the asset as a whole – not just on that particular aspect of significance which is said to be affected.

- 6.17 Ms Horton's evidence, on behalf of the Council, did not follow the correct approach, as evidenced in her written evidence and her responses to cross-examination (XX). By way of example, her assessment of the significance of Lawn House, Lower Farm and St Michael's Church only identifies significance in terms of the contribution of their wider setting (the only part of the setting which could be said to be affected), completely missing the much larger contribution which is made by other factors such as the rich history or fine architectural form of the buildings themselves, or even their close immediate settings (for example their arrangement relative to the church, defining an attractive churchyard).²⁵ Given the evidence as to the varied contribution

²³ INQ 4

²⁴ CD/I13 Paragraph 9

²⁵ CD/F3 paragraphs 3.12.2, 3.13.2 and 13.3.6

which setting makes to those assets, this was a major weakness in Ms Horton's approach.

Grendon Hall (Grade II)

- 6.18 The historical background to Grendon Hall is set out in Dr Miele's proof and in the Statement of Significance.²⁶ Grendon Hall is a good example of a gentleman's country house. Architecturally it is an example of what is called the Jacobean or Elizabethan revival style. It has a symmetrical façade with a varied roofline, and large mullioned and transomed windows and is organised around the main porch.
- 6.19 The elements of setting which contribute to its interest are principally the stable yard, walled garden to the south and the planted pleasure grounds. The setting concept was to create a well-screened and enclosed area around the Hall. Whilst positioned on high land, the Hall is not itself positioned to take advantage of long views from the interior rooms and such longer views as are available from the main rooms are predominantly from the south façade which contains the two storey bays. That screened effect is still preserved in the limited availability of glimpsed views of the Hall from either the drive or Grendon Road, which means that it still "suddenly comes into view" upon entering the pleasure grounds.
- 6.20 The wider parkland did make a contribution to the significance of the Hall, and still does, However, the architectural and historical interest of the house is best appreciated from its close setting, although the longer views from the pleasure gardens are clearly attractive. The condition of the Hall and the parkland is very much changed. The Hall has been in public use since the 1940s and those uses have now been extant about as long as its original use as a country house. The contribution of the park to the significance of the Hall has been eroded by the construction of the housing estate and associated urbanisation of the former drive, and by the demolition of the original lodge. More widely, the lake has gone and the pattern of paths and drives near the house has changed.
- 6.21 No harm to the ability to appreciate the historical significance of the Hall would be caused by the new buildings proposed. There is no intervisibility or other likely impact on the experience of the relevant setting from the built form of the proposed development itself. The impact is limited to the introduction of the new access and the new sports pitch, the associated acoustic fencing and SuDS pond to be located at the western end of the parcel of the former north park within the appeal site.
- 6.22 These impacts have already been mitigated by the removal of the woodland planting originally proposed via the landscape masterplan, the removal of floodlighting from the sports pitch proposals, and the preparation of an indicative lighting plan designed to reduce light-spill on the access road, amongst other measures. Further consideration will be given to whether the

²⁶ CD/E6 Appendix 2

scale of the acoustic fencing can be reduced and the effect of what is needed will be mitigated by planting.

- 6.23 The access would be harmful in that it would introduce a new urbanising feature, albeit that there is precedent for an additional access across the parkland, and that the new access would not compete with the existing as the obvious access to the historic Hall. The key question is whether the road and other development curtails or erodes views to the west from the small viewing terrace. In Dr Miele's view there would be a limited impact. The road would be associated with an existing line of trees but would not block the view. There would be some further distraction via the sports pitch in the middle ground but the near context (containing the prominent ridge and furrow and parkland trees) would be maintained, as would the longer views out beyond.
- 6.24 Ms Horton's assessment that there would be a high level of less than substantial harm to this asset is unsustainable. She described the harm as being at the upper end of the range but accepted that this would very rarely arise in a purely setting case. This view ignores the limited role which the wider setting beyond the pleasure grounds plays in the overall significance of the Hall and the impact of the existing prison and housing developments.
- 6.25 Ms Horton seems to underplay the impact of existing development on the setting of the Hall. At the application stage, her view was as follows:
- "Grendon Hall and its associated Walled Garden Grade I - It is accepted that the setting significance of these assets has already been largely compromised by the existing prisons. No direct changes are proposed to this asset. Negligible impact is therefore assessed."
- She revised this view having closely considered the Historic England setting guidance, GPA3.
- 6.26 The Parkland is now identified on the County's local list but remains to be considered as a NDHA. The original layout of the park and its relation to what had been there before can be understood from a comparison of the 1900 and 1880 OS maps.²⁷ As the OS map of 1880 shows, the park was formed from medieval fields which had been partially enclosed and planted before the park was laid out. The creation of the park entailed the introduction of a tree-lined drive; reorganisation of boundaries to create open pasture to the north; limited specimen tree planting; the addition of a lake; and the creation of a secondary access drive to the north leading to "the Rookery", now known as Lawn House.
- 6.27 Dr Miele considers that this design was not ambitious and resulted in a parkland of "moderate quality". It contained no woodland drives or ornamental features. The designer overlaid a few features onto existing agricultural land. A lake was made but this appears to have been more of a functional device. The main drive was more of a feature, but there is no evidence to suggest why it was placed where it was. The overall sensitivity of

²⁷ CD/E6 Appdix2 Figures 2.3 and 2.7

the NDHA has been reduced significantly by the development which has taken place in its boundaries. The introduction of new development into the north park, causing some further fragmentation and urbanisation will have an effect, but it needs to be calibrated by reference to the degree of surviving significance and the extent of what will remain – including the eastern part of the parcel within the appeal site and the area of the north park to the north of the new access road. Overall, Dr Miele is right to identify a moderate level of harm, and of course no policy 'tilt' is to be applied to this harm since the asset is not designated.

- 6.28 On ridge and furrow, the experts agreed at the Inquiry that this did not need to be addressed independently of the parkland. It does not contribute to the significance of the NDHA. They also agreed that little weight should be given to any loss given the archaeological conditions proposed by the Council. It is common in Aylesbury Vale. It is a feature of common field farming and thus of particular interest when associated with other antique features which relate to that past – which is not the case here.
- 6.29 It is the sports pitch and pond which would primarily give rise to disturbance to the ridge and furrow within the western parcel. There may potentially be some localised impact from the trim trail and gym equipment, but the Council have the opportunity to control this through approval of the landscape masterplan. Proper recording and minimization of impact, as recommended in the archaeological officer's response, is sufficient to mean that, overall, little weight should be given to any loss that may arise.

Gate Piers

- 6.30 The repair of the Gate Piers would be secured under a different application for the walled garden. However, Dr Miele's view is that the proposals would not lead to any harm to these assets was not influenced by this factor and thus stands unaffected. Ms Horton's contrary view, that there would be medium-high less than substantial harm, is based on the introduction of an additional "competing" access to Grendon Road and changes to the current access road through the introduction of the acoustic fencing.
- 6.31 The proposals do not change the role of the Gate Piers or their context. The new entrance is set further along the road and would not be given any ornamental treatment which might compete with the gates. The ability of the Gate Piers to communicate the presence of the house would not be undermined or diminished. The designed view down the drive and out through the Piers would be maintained. There would therefore be no harm to their significance.
- 6.32 The acoustic fencing might affect the experience of travelling on the access road by separating it from the parkland to the north but this would not undermine the function of the Gate Piers. Any effect it might have would only be on the parkland itself. Further, the acoustic fencing is not secured by the application and the revised conditions would allow for it to be removed or

reduced if the Council considered that this was appropriate given the noise evidence.

Grendon Underwood Conservation Area

- 6.33 There would be no effect on the character and appearance of this conservation area which is more than 500m away from the appeal site and entirely screened by intervening development, vegetation and topography. This conservation area gathers together scattered features but, in delineating the historic buildings, acknowledges that they are experienced in the context of modern development. The proper starting point for the assessment of the impact on this asset is the adopted conservation appraisal.²⁸ This identifies only a limited role for views out, referring to glimpsed views, but the only view north (from Crescent Cottages) is from outside the conservation area. It would only be experienced as a sense of rising agricultural land and would be unaffected by the Proposed Development.
- 6.34 Ms Horton produced a plan at the Inquiry showing *possible* views from the area around the conservation area but these are all from outside of the area itself and would be views experienced only when one has one's back to the conservation area. The verified view from H14 and viewpoint 14 suggest that any glimpses which might exist would be limited.
- 6.35 The only remaining point is the prospect of light pollution – as relied on by Ms Horton. This is implausible absent any suggestion as to where this impact would be felt and what impact it might have on the special character of the conservation area. Lighting would be controlled and minimized under the conditions. The main site buildings would be screened effectively.

Lawn House

- 6.36 This is a private house accessed via a private road from Grendon Road. It reflects the wider pattern of scattered farmstead; albeit that its area has already been somewhat urbanised, and it is closely contained by planting. Dr Miele identifies a very low level of less than substantial harm by reason of loss of some land currently contributing to its agricultural setting. The immediate setting would still be largely retained as agricultural, there would be no intervisibility, and any other impacts would be reduced by offsetting, intervening agricultural land, landscape features and acoustic mitigation.
- 6.37 Ms Horton's proof assessed the level of harm as low level less than substantial harm. Ms Horton focuses on the experience current residents have of living in the property and the experience of antisocial behaviour. There is nothing to suggest that the proposal would increase any existing

²⁸ CD/I17

behaviour which appears to be linked to the open prison. Dr Miele's judgement is to be preferred.

Lower Farm

- 6.38 Lower Farm is a small terrace of 18th century houses, rather than a farm building. Dr Miele explained that these are quite typical, often occupied by local labourers. The terrace appears to have been combined as a single house and, through post-war infill, is now experienced as part of the development comprising Edgcott. Its significance is best appreciated in its immediate context from which there is no significant intervisibility.
- 6.39 Ms Horton's view is that significance would be undermined by traffic increases giving rise to low level less than substantial harm. This view based on a (incorrect) expectation that the traffic moving past Lower Farm would be much higher than the 6% increase in daily average / 9 cars per hour it will actually be. This effect is unlikely to be discernible and would not affect the experience of the significance in any way.

Perry Hill Group

- 6.40 St Michael's Church is the most interesting building in this group with a rich significance in archaeological, historical and architectural terms.²⁹ H5 is the view from the top of the churchyard (with one's back to the church) which does offer a glimpse at some distance of the existing prison and confirms a marginal increase in impact from the proposed prison buildings; but viewed across a clear area of agricultural land.³⁰ In Dr Miele's view this would be a marginal impact on the view but would not affect the ability to experience the significance of the church, which is very enclosed. Any sense of the wider agricultural setting to the village would remain and the physical interest of the church would be entirely preserved.
- 6.41 Ms Horton accepted that many views to the church would remain from across the landscape including from the footpath north of the appeal site. Although she maintained that the view shown in H5 would be affected, thus reducing its significance she said that her main concern was now Old Manor Farm and Cottage – in relation to which she repeated her complaint about the absence of information. The appellant had no indication of the nature of the impact of concern from Ms Horton's written evidence.
- 6.42 As Dr Miele explained, the view at H4 is an effective representation for the view from the front of Old Manor Farm, being taken from the road at a similar height to the front of the property. It shows that there would be a noticeable impact on the ridgeline, particularly before planting is established, but the foreground would remain predominantly agricultural and would not be changed.³¹ Dr Miele acknowledged a possibility for a landscape or amenity

²⁹ CD/J31

³⁰ CD/E6 Appendix 2

³¹ CD/E6 Appendix 3 pages 40 & 41

impact but was clear that there would not be any impact on the ability to experience the historical significance of the asset.

Assets in the wider landscape

- 6.43 Ms Horton downgraded her original assessment of a low level of harm, to “very low” or “very minimal” in response to cross examination (XX). This alleged harm appears to be primarily on the basis of night-time views and the speculative and unevidenced possibility that the proposal might be visible within “*designed long distance views*”. Ms Horton had not identified any of the designed views she referred to in her proof; or relevant material within the conservation area appraisals; or any assessment of the significance of the views she was referring to.
- 6.44 Ms Horton’s approach is inconsistent with the consultation responses of Historic England.³² The possibility of material intervisibility is inconsistent with the landscape evidence of Ms Bolger who confirmed that she did not consider these assets relevant to the cultural value of the assessed landscape.
- 6.45 Ms Horton’s speculation appeared to be in large part based on the impact of lighting on night-time views, perhaps understandably given the likely difficulties in picking out the site in the daytime at distances of over 5km. However, as Dr Miele explained the appreciation of historic significance at night is materially harder and the corresponding effect of near-ground existing lighting/development much higher in terms of its masking effect. Therefore, even if a person were able to see the lights of the new Prison from Quainton, Waddesdon or Wotton from a designed view, it is simply implausible that those lights would have a measurable effect on the appreciation of that view.

Quainton Conservation Area

- 6.46 Quainton Conservation Area is roughly 5.4km from the appeal site. There is very limited intervisibility.³³ This is because the land rises steeply to the north and west of the historic settlement as documented in the conservation area appraisal. Further, as a proportion of the total agricultural setting, the proposals are plainly insignificant. Dr Miele confirmed there is no realistic prospect of any heritage impact arising.

Waddesdon Conservation Area and Registered Park and Garden (RPG)

- 6.47 Waddesdon is an RPG associated with an unusual estate village and is also a conservation area. The parkland rises so that the house is in the most prominent location but very well enclosed by woodland on the north east of the RPG. The Zone of Theoretical Visibility (ZTV) only shows a very limited part of the RPG which could even theoretically be affected by intervisibility, and the conservation area appraisal reveals that no important views would be likely to take in the appeal site. The height of the conservation area is

³² CD/B37 & B38

³³ See Ms Machin Zone of Theoretical Visibility Appendix 1

between 100-120m AOD – making intervisibility unlikely. Taking into account the distance and generally inward looking nature of the asset, Dr Miele confirmed there is no realistic prospect of any heritage impact arising. The assets would be preserved.

Wotton Underwood RPG and conservation area

- 6.48 Wotton Underwood RPG and conservation area contains the Grade I Wotton House and its landscaped garden which are situated on a flat plain, the northern edge rising to around 90m AOD, which is about level with the appeal site.
- 6.49 The theoretical areas of intervisibility are largely outside of the RPG's main parkland on the approach routes. They are treed. Panoramic views are to the east and west, not to the north, which is the direction of the appeal site. The site will further be screened by large woodland blocks to the north. Taking into account the distance, screening, heights and orientation of the assets, Dr Miele confirmed there is no realistic prospect of any heritage impact arising.

Ludgershall Conservation Area

- 6.50 This is another scattered settlement retaining a significant part of its original form. The conservation appraisal identifies no views out, and at about 75 m AOD, it is below the site. Dr Miele confirmed there is no realistic prospect of any heritage impact arising.

Heritage sub-conclusion

- 6.51 For these reasons, the Secretary of State should conclude that the proposed development will cause a low level of harm to Grendon Hall, very low harm to Lawn House, and moderate harm to the NDHA.
- 6.52 In weighing the harm to heritage assets, the Secretary of State will need to apply the provisions of the NPPF which provide a reliable route by which the statutory duties in s.66 and s.72 of the Listed Buildings Act 1990 can be complied with. NPPF 199 provides that great weight should be applied to an asset's conservation. For less than substantial harm to the designated assets, the harm must be weighed against the public benefits of the proposal. Ms Hulse, for the appellant, confirmed that in her view this test was "*readily*" met.³⁴
- 6.53 In the main planning balance, Mr Thistlethwaite accepted that, on the appellant's case, Ms Hulse's approach of according moderate weight to the assessed harm to the designated heritage assets (Grendon Hall and Lawn House) in this case was logical and reasonable given that the assets concerned are not of the highest importance (Grade I or Grade II*) in NPPF

³⁴ CD/E1 paragraphs 7.57 – 7.59

terms, that the assessed harm is low level and that tilted weight is to be applied.

- 6.54 In terms of the NDHA, there is no special tilted weight or policy test to be applied. Any harm is simply to be weighed in the balance in accordance with NPPF 203. Thus, Ms Hulse's approach of attributing limited weight to the moderate harm to the NDHA in this case was accepted by Mr Thistlethwaite to be a logical approach.

Landscape Character and Visual Effects

Adequacy of information

- 6.55 The LVIA submitted with the application was informed by the requests made by the landscape officer, including the number of viewpoints and visualisations and the type of visualisation provided. Ms Bolger, on behalf of the Council, accepted the accuracy and methodology of the visualisations subject to a few points of detail.
- 6.56 Mr Spence, on behalf of Grendon Underwood Parish Council criticised the visualisations. His main point in his written submissions was that a different standard of visualisation should have been prepared (Type 4 not Type 3). This was overtaken by the time of the Inquiry as Ms Machin provided Type 4 visualisations with her proof.³⁵
- 6.57 At the Inquiry, he then raised a series of other points mainly related to how transparent the Pegasus work was in terms of explaining how the base photographs were taken. This, he suggested, prevented him from understanding how they were prepared (for example how portrait images were stitched together) and from having confidence in the outputs. Notwithstanding this, Mr Spence did not actually identify any specific problems in the photos or visualisations. His main point appeared to be that the Pegasus images were cylindrical such that the Inspector would need to slightly curve the paper to replicate the effect when standing at the viewpoint. Nothing he said served to undermine the usefulness of the visualisations prepared.
- 6.58 The Council, agreed with the methodology used in the appellant's visualisations and their accuracy subject to some points of detail. These were the absence of windows on the modelled buildings, a glitch in the visualisation for viewpoint 13, and a view that the landscape screening shown at Year 15 for Viewpoint 15 might not realistically have matured to that extent by that date. Dealing with each in turn:
1. The absence of modelled windows reflects the fact that the application is in outline. This may result in some additional effects during the night-time, but the internal lights would not be as bright as the external lighting and would be unlikely to extend night-time visibility. The windows would have capacity for curtains and/or

³⁵ Ms Machin Appendix 5

blinds and prison operational patterns would include lights out times. Further, although Ms Bolger referred (somewhat implausibly) to scout groups and runners using the footpaths at night, the viewpoints which would primarily be affected are to the east and unlikely to be much accessed outside of daylight hours.

2. Although there was a glitch in the night-time visualisation for Viewpoint 13, as this involves the exclusion of part of the existing prison, it seems unlikely that this would drive any increase in the assessed effects of the proposal.
3. Ms Machin accepted the point that the vegetation shown for Year 15 at viewpoint 15 might be shown as a little more established than is likely but pointed out that her assessment of major adverse effect remains robust and founded on the prison's continuing visibility after that point.

6.59 Ms Bolger also suggested that the night-time glow on the visualisations was underplayed. Even taking account of these points it was agreed by the main parties, that the Inspector has sufficient information to make her recommendation and to enable the Secretary of State to determine the application.

Approach to landscape sensitivity

- 6.60 Examination of the landscape witnesses focused on differences in approach between Ms Machin and Ms Bolger in relation to both value and susceptibility.
- 6.61 Ms Machin's proof explicitly recognises the role of cultural heritage and the presence of relevant designated assets.³⁶ Although she accepted that the final sentence of 3.31 could have been better phrased, her basic position was not that cultural heritage was irrelevant but that the landscape in question here was not heavily influenced by cultural assets. Adding a greater sense of cultural influence in would not have changed her view of value – which remained low to medium.
- 6.62 This is a fair judgement. Although the site may include part of the NDHA, its significance has been eroded and, it would never have been a landscape of a quality meriting formal designation.
- 6.63 It is notable that the Landscape Character Assessment appraisal for the Landscape Character Area (LCA) containing the site (LCA 7.1 Poundon – Charndon) does not mention Grendon Hall or its gardens, despite containing an extensive discussion of the LCA's "historic environment". As Ms Bolger accepted, this suggests that the authors did not view it as a striking feature contributing to the LCA. Ms Bolger maintained that this omission in the Landscape Character Assessment should be given no weight – but this is not a credible position given that the Landscape Character Assessment remains a

³⁶ Ms Machin POE 3.30

formally published assessment, referred to and endorsed by the Council through Policy NE4 of the VALP.

6.64 More generally, Ms Machin's judgements on the sensitivity of the landscape are to be preferred for the following reasons:

- As was agreed, the site and its surroundings are neither in a National Park, nor Area of Outstanding Natural Beauty (AONB) nor a 'valued landscape' in NPPF terms. Nor are they in the setting of a National Park or AONB. The VALP has two types of designated landscapes – Areas of Attractive Landscape and Local Landscape Areas. The site falls within neither.
- The local Landscape Character Assessments identify distinctive views within the character areas but Ms Bolger accepted that none of those which are referred to would be affected by the proposals. Ms Bolger did identify an impact on the distinctive features of trees on top of hills, but quite obviously those trees (as a landscape feature) are not impacted.
- The area is marked by some significant existing detractors – including the existing prisons, Calvert landfill site and Greatmoor Energy for Waste plant.
- The site is not within an area designated as 'dark skies' and there are a number of sources of lighting within the local context.
- It is not a landscape perceived as having high levels of tranquillity or being particularly remote, especially given the presence of urbanising features in the local area. Although Ms Bolger thought it was relatively tranquil in some locations, these were further away from the site itself which is dominated by the existing prisons.

6.65 The parties differed as to whether susceptibility should be determined by reference to the ability of the landscape to accommodate development of the "type" or "nature" proposed, or whether it should in fact take account of all of the features of the proposal itself: such as its scale, extent and layout. The question turns on the meaning of paragraph 5.40 of GLVIA3.

6.66 This appears to be a point which has vexed landscape professionals to a considerable degree. It was identified as a question which needed addressing following a webinar held by the Landscape Institute's GLVIA Panel in December 2020. The result of their consideration was answered in TIN (01/21), produced by the GLVIA Panel and published by the Institute on their website.³⁷ It states in the introduction section that it is intended to be "*read alongside GLVIA3*" and the statements of clarification found on the Landscape Institute's website. It may not have been subject to consultation within the

³⁷ INQ 12

professional body, but as a document issued by the authors of GLVIA3 it must carry considerable weight as an aid to its proper application.

- 6.67 Question 41 as discussed in TIN (01/21) raises precisely the same issue as to the correct approach to susceptibility as stands between Ms Bolger and Ms Machin. The advice is:

"Susceptibility should consider the type of change (whether it be housing, a railway, warehouses, afforestation/deforestation, open storage, a wind farm, a grid connection etc.). This is because if the actual proposed development is considered, this then crosses over with the magnitude judgement (with potential for double counting). The receiving landscape may have characteristics that make it more susceptible or less susceptible to change from the type of development in question and, in the Panel's view, these 'indicators of higher and lower susceptibility' should be clearly set out."

From this advice it appears to be the GLVIA Panel's emphatic view that it is the type of change which is to be considered, not the actual proposal. To consider the actual proposal (in its scale and extent etc) would be to double-count as those factors are already taken account of when determining the magnitude of change.

- 6.68 In her Evidence in Chief, Ms Bolger expressed no concern about the fact that she was in conflict with the Panel, or indeed about the possibility that she might be double-counting the impacts of scale by overstating the susceptibility of the landscape. She was of the view that susceptibility must be low when magnitude is high. Whilst experts may reasonably disagree about such matters, the criticism advanced by Ms Bolger of Ms Machin cannot be accepted in the light of TIN (01/21). The GLVIA3 methodology is not intended to be a straightjacket, but Ms Machin's approach of keeping scale and extent separate from the assessment of susceptibility (and hence sensitivity) has a strong logic and avoids the risk of double-counting (and hence overstating) the impact of the development.
- 6.69 Ms Bolger's conclusion that the sensitivity of the site and local landscape is "medium/high" (almost at the upper end of her methodological range) is a strong indication that she has overstated matters, as is her conclusion that the overall effect at Year1 is thus "major adverse" (again top of her range). The screening opinion issued by the Council considered that the Proposed Development was not likely to have a significant effect in Environmental Impact Assessment terms.

Magnitude of Effects

- 6.70 Although some landscape effects are inevitable for a development of this size and scale, the scheme has been arranged and designed to minimise the impacts and make them acceptable. This includes:
- The evolution of the layout and site boundary following pre-application consultation, to move taller built development away from the ridge line, including by the purchase of more land to the east.

- The creation of a landscape strategy would seek to encourage the retention and strengthening of the historic hedgerow pattern by infilling gaps and establishing new hedgerow trees, in accordance with the landscape guidelines in the two relevant Landscape Character Assessments.
- Specific choices aimed at mitigating wider impacts, such as the removal of floodlighting from the sports pitch, and changes in the lighting proposed (now for final approval under a condition) on the new access road.

The resulting effects are, as Ms Machin explained, moderate adverse but not significant.

6.71 As to visual impacts, there was a large degree of agreement between the two experts. Ms Bolger accepted that many long-distance views across the landscape would be maintained. Even users of the public footpath running right along the northern boundary of the site would continue to be able to gain panoramic views across the local landscape and Ms Bolger accepted that their attention and focus would naturally be drawn to those views and away from the adjacent hedge next to the proposed development.

6.72 NE5 was listed in reasons for refusal on the basis of lighting impact. However, Mr Thistlethwaite accepted:

- That there was nothing to suggest more lighting was being used than reasonably required;
- Choice and positioning of light fittings is for further approval and can be minimised; and
- Impacts on ecology would be specifically addressed.

He accepted that there are no grounds for a breach of NE5 at this stage.

6.73 In relation to NE4 a), b), e) and g):

- Significant steps have been taken to minimise the impact on visual amenity including through locating the houseblocks further to the east so as to avoid high ground (something requested by the officers);
- Other steps have been taken to minimise the impact of lighting;
- This is not an area of intrinsic darkness;
- No issue is raised regarding noise; and
- There is no suggestion of a loss of important on-site views.

6.74 As to NE4 d), such matters are capable of being controlled at reserved matters.

6.75 In relation to NE4 c), the question depends on the Secretary of State's assessment of the landscape character and impact – but that question will be informed by the absence of any protected landscape or AONB/National Park.

The lack of designation would also affect the weight to be given to landscape harm in the planning balance.

- 6.76 In relation to NE4 f), Ms Machin accepted that there “*may*” be some inconsistency with the policy and Ms Hulse’s view, having heard the landscape evidence, was that there was some harm in terms of the development being likely to be visually prominent from some viewpoints. However, the fact that there is some degree of conflict with one element of a policy does not necessarily mean that the proposal is in breach of the policy as a whole.
- 6.77 The Officer’s Report accepted that the design of the buildings has to be driven by operational requirements and that, given the availability of reserved matters, there was no conflict with VALP policy BE2. Mr Thistlethwaite concurred with this position.

Effect of the Proposal on Biodiversity

- 6.78 Reasons for refusal 2 and 4 have now been withdrawn and compliance with VALP Policy NE1 and NPPF 180 is agreed. As part of that, the Council accepts that the proposal would deliver a net gain in BNG terms. There is no requirement for a specific level of gain either in policy or in law (the Environment Act provisions are not yet in force).
- 6.79 The Council’s SPD establishes a hierarchy with the preference being for BNG to be achieved on-site.³⁸ On the current metric, Mr Thistlethwaite accepted that it is a reasonable assumption that the 14% projected can be achieved on site given the fixed layout and the controls which the Council has over landscape. Delivery over policy compliance should be given positive weight.

Whether the loss of the playing field would be adequately mitigated

- 6.80 There are three sources of policy in question:
1. The primary source is the NPPF which sets out policy in paragraph 99 b).
 2. The Council’s Policy I2 h) is drafted to track the same provision in NPPF 99 b).
 3. Sport England’s playing field policy, which states that it is intended to be consistent with the NPPF.³⁹
- 6.81 The High Court judgment in *Brommell* is clear that the correct interpretation of NPPF 99 b) is that the question of whether sports land will be replaced by “*equivalent or better provision*” must be *judged* in terms of both quantity and quality, but allowance can be made for one to be set off against the other.⁴⁰ Mr Thistlethwaite agreed in principle that, the requirements in each of the above three sources of policy are capable of being met if, in the judgement of the decision-maker, the quality of the replacement provision is sufficiently

³⁸ CD/H11 page 22

³⁹ Page 9

⁴⁰ *R (oao Brommell) v. Reading BC* ([2018] EWHC 3529 (Admin))

superior to the existing provision to outweigh any reduction in quantity of space provided.

- 6.82 In this case, the better quality of the new pitch can be secured by a condition requiring a survey of the existing facility and provision of a superior quality facility by comparison.
- 6.83 The loss of some existing quantity of space here is essentially merely theoretical. As Ms Hulse explained, there is no realistic prospect of more sports use being made of the wider existing site. In terms of current use, the playing field is used by the appellant as part of its wider sports facilities to provide 2.5 hours per week of physical activity for the Category D prisoners at HMP Springhill. Take up of this provision is low and the sports field has never been intensively used. For these reasons, the theoretical ability to use the space flexibly and move the sports pitch within the field has not been used in practice (at least since 2003, as shown in the Ms Hulse's aerial photos).⁴¹ As Ms Hulse explained, rotating the pitch would not be realistically feasible due to the slope of the field.
- 6.84 Owen Neal, on behalf of Sport England acknowledged that he had never visited the site and so was unable to offer a view on the existing quality of provision. In XX, Mr Thistlethwaite accepted that better quality could be secured by condition and he thought that neutral weight was fair on the basis of the evidence he had heard. Ms Hulse, exercising her judgement, thought that the significantly better quality provision that could be achieved by condition would outweigh the minor theoretical reduction in quantity. This would result in an overall enhancement attracting limited positive weight in the planning balance.

The need for the proposed development and the availability of alternative sites

- 6.85 The proposal is one of four new prisons promoted under the New Prisons Programme. This seeks to address a forecast rise in prison population, as well as forming a major part of plans to transform and modernise the prison estate.
- 6.86 There are several aspects to the need case put forward by the appellant. First, the proposal would contribute to meeting a national need for additional prison places. The MoJ has projected a significant increase in the total prison population to 98,500 by March 2026. This has been modelled, in the context of the appeal, as giving rise to a projected 32,290 category C prisoners in need of a resettlement place by July 2026 once the new capacity being

⁴¹ ICD/E1 figures 2,3,4,5,&6

brought forward through consented expansions including the new prison next to HMP Full Sutton is included.

6.87 This does result in technical “*surplus*” as at that date, but the following points are important to bear in mind:

1. The prison system cannot safely operate at or near to operational capacity without losing resilience. Mr Smith explained that maintenance issues are difficult to address in a secure environment and it is not uncommon for significant portions of the estate to have to be put out of operation for periods of time. Maintenance and renewal can be put off in extreme circumstances, but plainly that is not a long-term solution and there are already high levels of backlog maintenance leading to much of the existing prison estate being in poor condition.
2. Resilience is essential for dealing with fluctuations in prisoner numbers and those numbers, as the Inspector identified in the Garth/Wymott decision, are uncertain. However, the Inspector in that appeal (unlike the Secretary of State) was wrong to rely on that uncertainty to reduce the weight to be given to the need for additional prison places.
3. The projections are the best available data. They are founded on the national projections at CD/J6. That document is the MoJ bulletin, produced in line with the quality control mechanisms required of statistics with “*National Statistics*” status. These statistics are signed off by senior leadership within the MoJ, the Home Office and Crown Prosecution Service and are scrutinised by the Treasury who use the projections to justify signing off spending reviews. The projections are based on the MoJ’s assumptions about the influence of the recruitment of an additional 23,400 police officers and changes in the law as they apply to the prosecution, sentencing and release of serious, violent and sexual offenders including domestic abuse offenders. While these are difficult things to model, it is entirely possible that the projections could end up being an underestimate of demand just as much as an overestimate.
4. This is not altered by the fact that the real-world numbers have lagged behind the projections in 2022 (although numbers grew by 3,000 in the year to December 2022).⁴² These figures were explained by exceptional features, including the ongoing effects of Covid on the criminal justice system and the criminal barristers’ strike. This does not alter the underlying drivers of increased demand identified by the MoJ. Even if these factors result in a delay to the growth anticipated, that growth will still arrive and may do so before or around the time that the Proposed Development would become operational (about 2027).
5. The consequences of being at or beyond capacity (as is effectively the case now) are serious. Even when using short-term measures such as delaying repairs, HMPPS has had to resort to the extensive use of crowding (under which approximately 20% of prisoners are being held in shared cells which

⁴² CD/J10

should only ideally be occupied by one prisoner).⁴³ In November 2022 (as in 2006 and 2007-2008) the MoJ had to activate Operation Safeguard so as to be able to temporarily use police cells as spill-over capacity.⁴⁴ Crowding in particular has knock-on effects on both prisoner on prisoner and prisoner on staff violence, as well as health and well-being.⁴⁵

- Further, the historic imbalance between the categories of prisoners and the types of prisons available has led to a large number of category C prisoners being held in category A or B prisons (around 1,960 males at December 2022 up from 1,750 in May 2022). Holding prisoners in the wrong type of prison both inhibits rehabilitation and is poor value for money; higher security prisons are more expensive to operate.
- In such circumstances, it is submitted that HMPPS are right to plan to build not just to meet the projected growth figure, but to exceed it by a reasonable (if modest) margin.

6.88 There is a specific and urgent need for additional category C resettlement places in the south of England. The appellant projects a deficit of some 590 places in July 2026. In addition, around 2,060 category C men with less than 24 months remaining sentence and an origin address within the south were being held elsewhere.⁴⁶ This specific need for new capacity in the south (particularly pressing in the south east and London) is an issue which has been identified since the earlier stage of the New Prisons Programme – the site selection requirements required that at least one new prison be in the South East.

6.89 Meeting local needs is particularly pressing for category C resettlement prisoners because it is these who will benefit most from contact with families. Allowing greater contact with family members is a key goal; reflecting as it does the “*clearest finding*” of Lord Farmer’s report which was that there was “*an unacceptable inconsistency of respect for the role families can play in boosting rehabilitation and assisting in resettlement across the prison estate.*” As he observed, the MoJ’s research shows that for a prisoner who receives visits from a family member the odds of reoffending are 39% lower than for those who do not.⁴⁷

6.90 This generation of new prisons has been carefully designed by the appellant both in terms of their physical features and regime design to improve outcomes. There is consensus amongst academics about the features that

⁴³ CD/J5

⁴⁴ CD/E2 paragraph 2.15

⁴⁵ CD/E2 paragraph 3.7

⁴⁶ CD/E2 Paragraph 4.14

⁴⁷ CD/J19 page 4

can lead to a reduction in reoffending, reduced violence and increased wellbeing and these have been incorporated into the new prison design.

6.91 These features include:

- The new houseblocks would create smaller communities whilst ensuring good lines of sight, as well as better ventilation and lighting, which would enable modern methods of prisoner management. This in turn would improve prisoner and staff safety and boost prisoner-staff interaction, with consequential impacts on rehabilitation success. This new design is based upon a consensus among academics as to the features which lead to the best outcomes for prisoners.
- Further, the reception and visiting areas are designed to create a more relaxed, welcoming and less institutionalised environment – encouraging the maintenance of family links which are at the heart of the aspirations set out in the Farmer Report. Design details would include increased use of glazing to provide light and visibility onto an adjoining play area and better sound insulation.

6.92 This aspect of the proposal not only accords with the Farmer Report but also the Prison Strategy White Paper which sets out the need to design and construct state-of-the art prisons that meet the needs of our diverse prison population, are digitally enabled and more environmentally sustainable – giving prison leaders additional tools to drive up performance and ultimately reduce reoffending.⁴⁸ Details of other measures which would help to meet those goals are set out by Mr Smith in his proof.⁴⁹

6.93 If permission is granted for the new resettlement prison at Garth Wymott, none of the key factors underlying the need for the Proposed Development would materially change. The proposed development is part of the same New Prisons Programme which is seeking to meet the need for prisons in different parts of the country. The provision of the new prison at Garth Wymott (in the North West) would not reduce the critical need for this new prison in the South of England. Further, the New Prisons Programme is designed to address the lack of resilience in the national provision and to modernise the existing estate. Garth/Wymott is only one part of that plan. The Proposed Development is equally needed to meet those objectives.

Site selection

6.94 The MoJ selected the appeal site as the sole location promoted for a category C resettlement prison in the south of England. That decision was reached by the MoJ after a rigorous site selection procedure which looked at MoJ sites, other publicly owned sites; and also a range of private sites in the north west and south east of England.⁵⁰ The process looked at the sites by reference to a wide range of criteria including those relating to practical suitability (site size, proximity to major areas of need, risk of overlooking, likely recruitment

⁴⁸ CD /2

⁴⁹ CD/E2 paragraph 3.13

⁵⁰ CD/E2 Annex A

issues), land use acceptability (need for levelling, flood risk, sustainability, presence of significant PRow, ecology and heritage designation) and public value for money.

- 6.95 No significant criticism has been made of that process by the Council or interested parties. In respect of the criticisms that that the site itself does not meet some of the lower tier criteria in the MoJ's list of requirements the following points are made:

On the secondary requirements:

- The site is sufficiently flat for prison development and the appellant has no concerns about being able to construct the proposal. Neither the Council nor interested parties have raised specific concerns about the impact of the earthworks which would be required.
- The site does not currently have good strategic access to public transport, but Mr Cartwright's view is that appropriate access and sustainability could be achieved. Moreover, is a secondary and not a mandatory requirement;
- The other secondary requirements were met.

On the tertiary requirements:

- The site is not brownfield. It is in a location which faces particular (if not abnormal) levels of demand for prison officers which might make recruitment more challenging and was in the vicinity of both historic designations and some PRows. However, Mr Smith stated that these were not mandatory requirements and – in any event – as the evidence from Ms Machin, Dr Miele and Mr Cartwright demonstrated those impacts are all acceptable in the context of the proposal.
- Mr Smith confirmed that the other tertiary requirements were met.

- 6.96 No point was taken as to compliance with the mandatory requirements. The net outcome of all this was that it was established that the site has some limitations in terms of the MoJ requirements, but there is nothing before the Inquiry to suggest that it fails to meet them or that there is any alternative site which would perform better.

- 6.97 This adds to the weight to be given to the benefits of the proposal.

The Benefits of the Proposal

- 6.98 The starting point for assessment of the benefits of the proposal is that it would meet the imperative need for new prison places both nationally and regionally. This is a pressing factor of substantial weight.
- 6.99 In addition, it would deliver new prison places in a facility designed in accordance with the latest standards. Providing safe, secure and modern facilities would enable the MoJ to deliver improved outcomes for prisoners

both while they are in the prison – particularly in terms of their health – and once they leave, by improving rehabilitation and reducing reoffending rates.

- 6.100 This gives rise to substantial social benefits. The position is in line with that at Garth where the Secretary of State agreed with his Inspector that the greater social benefits for prisoners secured by a new prison should be given significant weight. The only challenge to this was to say that the social benefits are not yet backed up by empirical data (simply due to the fact that only one of the newly designed prisons has yet opened and has not yet been in operation for sufficient time to enable such evidence to be gathered). Nevertheless, it was accepted that the new prison design is informed by academic research studies as to features which best contribute to successful rehabilitation and reoffending reduction and there is no good reason as to why such outcomes would not be achieved.⁵¹
- 6.101 Mr Thistlethwaite's refusal during XX to give additional weight to the provision of new facilities – which he accepted would be of benefit and give rise to better (if unquantified outcomes) – was unreasonable. It failed to recognise the level of need which the prison service faces, and the social benefits of addressing them.
- 6.102 In addition, the appeal proposal provides a replacement playing pitch, running track and replacement outdoor gym equipment for the prisoners of HMP Springhill, the quality of which would represent an enhancement to the existing facilities.

Economic benefits

- 6.103 In terms of economic benefits, the position was set out by Mr Cook, drawing on earlier work in the Socio-Economic Statement prepared by Mace.⁵² These include the following estimated economic benefits during the construction and operational phases which are described as significant:⁵³
- 81 temporary jobs would be supported during construction, with a further 24 jobs supported by supply chain and employee spend impacts. The contribution to economic output made by the construction phase is estimated to be £77.5million.
 - Once operational, 550 staff are expected to be directly employed at the prison. A further 256 jobs could be supported by supply chain spend, as well as 26 induced roles supported by staff and prison visitor spend.
 - Applying the locally-based staff estimates from HMP Grendon, HMP Springhill, HMP Aylesbury and HMP Bullingdon, between 234 and 313 on-site jobs could be taken by people living in the former Aylesbury Vale local authority area.

⁵¹ CD/E2 paragraph 3.12

⁵² CD/A25

⁵³ CD/E4 3.3

6.104 The social impacts of the new prison would also be significant. The appointed contractor for the new prison would be contractually obliged to meet the following key performance targets:

- 20% of construction spend within 25 miles of the site (which could amount to around £50million).
- 25% of employment within 50 miles of the site.
- 50 construction jobs given to former prisoners or those near release.
- £50,000 spend with Voluntary, Community and Social Enterprises.
- 1 community project per year.
- Targeted events, such as job fairs and school visits.
- 1,750 Work placement days.
- 50 new apprentice opportunities

Evidence in Mr Cook's Table 3.1 shows that the data from other new build prisons suggests that the targets above would be met and potentially exceeded.⁵⁴

6.105 The Council did not dispute the socio-economic evidence at the application stage, via the reasons for refusal, or in their statement of case.

6.106 The Peter Brett Associates report "*Economic Impact of a New Prison*" on which the Mace analysis was based is dated and based on prisons which were largely in urban locations. However, no other work on economic benefits of prisons have been pointed to and Mr Cook was confident that it remains the most appropriate study to inform the calculation of some of the wider benefits. The Mace analysis of the number of staff who would live within a 40-mile radius was updated by Mr Cook's own analysis which concludes that between 42.6% and 56.9% of staff at the new prison would be likely to live in the former Aylesbury Vale local authority area.⁵⁵ Mr Thistlethwaite accepted that he had no basis on which to question the percentage for local workers derived from HMP Grendon, HMP Springhill, HMP Bullingdon and HMP Aylesbury (which was the basis for Mr Cook's breakdown). He also accepted that, being derived from actual data from prisons on the existing site and nearby, this analysis inherently factors in:

- existing low levels of unemployment in Buckinghamshire;
- the rural location;
- local recruitment challenges; and
- the fact that there are already 10 prisons within a 40 mile radius

6.107 Mr Thistlethwaite was wrong to discount the weight to be given to the economic benefits on the basis that these benefits are "*generic*" in the sense they would be delivered on any scheme in the south. NPPF 81 provides that "*significant*" weight should be placed on the need to support economic growth. There is no caveat to this which requires it to be discounted where the same proposal could be delivered elsewhere. In the Garth decision, both the Inspector and Secretary of State gave significant weight to economic benefits. This was despite evidence of recruitment difficulties and relatively

⁵⁴ CD/E4 Page 11

⁵⁵ CD/E4 paragraphs 3.12 -3.14

low unemployment in the area, and despite a similar challenge being made by the local authority in Garth as to the benefits being “generic”.⁵⁶ The same approach should be taken by the Secretary of State here. Ultimately Mr Thistlethwaite’s insistence on giving only limited weight on the basis that an alternative scheme would come forward lacked credibility given the similarities between the two cases.

Social Benefits

- 6.108 It is a key benefit of the proposal that it would provide better quality prison places than those currently found in the prison estate. Mr Thistlethwaite accepted that this qualitative benefit was something positive irrespective of the need for additional places. This was recognised as “obvious” by the Secretary of State in Garth. He gave significant weight to this factor.⁵⁷
- 6.109 As to sports provision at HMP Springhill, the replacement pitch would represent a qualitative enhancement and any theoretical reduction in quantity provided by the current sports field would not amount to any diminution in usable facility. In this light, as explained by Ms Hulse, the enhancement to sports provision is a matter to be accorded limited positive weight.

Environmental Benefits

- 6.110 The proposal would comply with the MoJ’s sustainability policy which contains a commitment to delivering BREAMM ratings above current policy requirements and would contribute to delivering a 90% reduction in carbon emissions and a 70% reduction in energy use when compared to HMP Five Wells.⁵⁸ This is also something that should be given some positive weight and is consistent with the design aspirations of NPPF 154 b).
- 6.111 Using the nationally recognised standard DEFRA 3.0 metric for measuring BNG it is calculated that a 14% net gain would be achieved on the basis of the up-to-date illustrative landscape masterplan.⁵⁹ Whilst this may be subject to change at reserved matters stage, any significant change is unlikely given that the layout would be fixed at outline stage and on the basis that there is already significant agreement as to the proposed landscaping scheme.
- 6.112 This measure of net gain is far in excess of anything currently required by current policy or legislation. Mr Thistlethwaite accepted that the NPPF and local policy require only that there be a net gain and do not require any particular percentage increase. He also accepted the principle of attributing positive weight to exceeding policy or legal requirements. In this context, the

⁵⁶ INQ 7 DL 23, IR 13.69-0, IR 8.47

⁵⁷ INQ 7 DL 20

⁵⁸ CD/E2 Paragraph 6.4

⁵⁹ CD/E8 paragraph 5.25: 14% net gain for area-based habitats, 15.69% net gain for hedgerows and a 30.46% net gain for rivers.

significant net gain that is likely to be achieved here should be accorded significant positive weight.

- 6.113 Finally on benefits, limited positive weight should be accorded to the transport infrastructure benefits offered by the appellant. Mr Thistlethwaite accepted that there is an existing problem at the Broadway / A41 junction. Therefore, whilst designed to mitigate the impacts of the proposed development, the proposed junction improvements would deliver wider benefits to existing highway users. Mr Thistlethwaite fairly accepted that this attracts positive weight in the planning balance. Similarly, if the proposed contributions to the bus service and bus stop improvements are accepted and delivered, Mr Thistlethwaite agreed that that they would also be of benefit to the wider community and should similarly attract some limited positive weight.

Other issues / Interested party concerns

Recruitment issues

- 6.114 Longstanding recruitment issues were raised with Mr Cook, but as Mr Thistlethwaite accepted, that is an issue which can only be addressed by dealing directly with those challenges, rather than by holding back prison delivery itself. Recruitment and retention of staff challenges are nationwide and cross-sector and go beyond the scope of this appeal. More fundamentally, there is no economic rationale for holding back investment on the basis of a strongly performing local economy. In those circumstances, whatever Mr Thistlethwaite may think about the advantages of locating prisons in areas of lower employment, the basic position remains that there is no planning or policy harm.

Security

- 6.115 The Parish Council's representations refer to comments from the Deputy Chief Constable of Thames Valley, but the appellant has not been able to confirm the source of these. They have not been made in relation to the application or appeal. In any case, Ms Hulse explained that when a new prison is opened there is careful advance engagement undertaken by the appellant with the providers of blue-light services.

Flooding

- 6.116 Mr Copsey raised concerns about surface water crossing his land. The Flood Risk Assessment does identify that there are some areas across the site, shown in Figure 3, where there is a tendency for the surface water flooding.⁶⁰ These are retained under the illustrative landscape masterplan as amenity

⁶⁰ A15

grassland or woodland planting. In any event, the Lead Local Flood Authority response has confirmed that the overall risk is low.⁶¹

- 6.117 In terms of run-off, there is provision for two above grounds SuDS features by the eastern boundary of the site as well as further features under the Multi Use Games Areas (MUGAs). They will be discharged to the River Ray but at attenuated greenfield runoff rate, moderated for climate change.
- 6.118 There can be confidence that the Proposed Development would not result in any increase in flood risk, either onsite or beyond.

Contaminated land

- 6.119 Mr Copsey also raised a concern about a historic pollution event. This has been considered but, as Ms Hulse confirmed in her evidence, the appellant has found no record of any pollution incidents having been reported to the Environment Agency at or near to the site. A Combined Geotechnical and Ground Contamination Risk Assessment was submitted with the application and, subject to the imposition of appropriate conditions, no concerns have been raised by the Council's Strategic Environmental Protection team.

PRoW

- 6.120 The Council agree that the integrity and connectivity of the PRoW network would be maintained and that that there would be compliance with Policy C4. There would need to be a diversion order for the existing PRoWs through the site and Ms Hulse explained that obtaining these would likely take around six months. No objection has been received from the Council's PRoW officer.

Best and Most Versatile Agricultural Land

- 6.121 The Council and the appellant agree that there would be some limited conflict with VALP policy NE7, due to it not being confirmed that the western parcel of the site does not contain best and most versatile agricultural land (Grade 3a).
- 6.122 Even if the presence of Grade 3a land were confirmed, it is agreed that this would represent only a minor technical breach of policy. Mr Thistlethwaite accepted that the land concerned is very small in scale, is not within any agricultural holding, is not part of an agricultural tenancy and has not formally been used for agriculture since the construction of Grendon Hall. The land is unlikely to be farmed at any time in the foreseeable future. As such,

⁶¹ B64

the minor conflict with policy should be given very limited weight, as Mr Thistlethwaite agreed.

Minerals

- 6.123 A Minerals Assessment has now been submitted.⁶² It is agreed there is no conflict with Policy 1 of the Buckinghamshire Minerals and Waste Local Plan (mineral safeguarding).

Conditions

- 6.124 Draft conditions have been agreed between the appellant and the Council and discussed further on Day 8 of the Inquiry. For the purposes of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the appellant hereby records its agreement to the imposition of the pre-commencement conditions set out (or to any variations of them imposed by the Inspector which are to substantially similar effect).

Planning balance and Conclusion

- 6.125 The Proposed Development complies with the majority of the important policies identified by Ms Hulse, including BE1, NE1, S1, T1 and most of the criteria in NE4.⁶³ Any weight to be given to conflict with the settlement hierarchy policies must be reduced given those policies do not envisage the need for prison development. Any harm in terms of NE4 and the technical breach of NE7 is outweighed within the development plan and, as Ms Hulse advises, the proposal should be considered to accord with the development plan as a whole. All other material considerations weigh in favour of the grant of permission.

7.0 The Case for Buckinghamshire Council

- 7.1 This summary contains all material points in relation to Buckinghamshire Council's case and it is substantially based upon the closing submissions of the appellant. It is also taken from the evidence given on behalf of Buckinghamshire Council and from other documents submitted to the Inquiry.
- 7.2 Leading up to the Inquiry, it was the benefit of meeting the alleged need for accommodation for 1,468 Category C prisoners which was contended to be the primary public benefit relied on in support of the application and to be weighed against agreed heritage and landscape harm, as well as a number of other harms identified during the course of the Inquiry and outlined below.
- 7.3 However, the evidence at this Inquiry has amply demonstrated that there is no such need. There will be a national surplus of Category C prison places come July 2026. The appellant then sought to rely on an alleged regional need, said to be for 590 places. This regional figure is unverified and cannot be interrogated, since the background data and workings have not been supplied. In any event, this figure is substantially less than the number of

⁶² CD/G10

⁶³ CD/E1 paragraph 5.92

places for which permission is sought. Nor can it be said that the appeal proposal is well located for the purpose of a Category C prison, given the clear difficulties of access from London to the appeal site.

- 7.4 Instead, what this appeal amounts to is an application made by a Government department whose hands have been tied by promises made in the 2019 Conservative Manifesto to deliver 10,000 new prison places – promises which were doubled down on in the subsequent White Paper.
- 7.5 The appellant points to other purported operational benefits of building new prisons, benefits which at no point have been evidenced. At the end of the Inquiry the appellant's argument has shifted from being that the country or, at the least the south of England, needs the appeal proposal in order to provide sufficient prison places to being that the appellant wants the appeal proposal in order to reduce the managerial difficulty of operating the country's network of prisons.
- 7.6 Not only has the supposed benefit of need evaporated from the mix, but the appellant's own assessment of landscape harm has significantly increased, bus contributions have been rejected by the Council as failing to meet the CIL tests, the appellant's expert witness frankly accepted the highly limited nature of his socio-economic modelling, Sports England have confirmed its view that the sports provision is not policy compliant and, throughout this all, heritage harm to statutory and NDHA assets remains agreed.

Need

- 7.7 The appeal proposal is a case of want rather than need. The goal was first set out in the 2019 Conservative Manifesto as being to deliver 10,000 new places which was then doubled in the Prisons Strategy White Paper to a target of 20,000 new prison places by the mid 2020s.⁶⁴ Indeed, on this point it is highly notable that Greg Smith MP in speaking eloquently against the grant of planning permission at the beginning of the Inquiry did so in contravention of what he stated was a three-line whip.

National need for Category C

- 7.8 During the course of the Inquiry, the appellant revised their case with regards to national need. Initially, the case was that by July 2026 there would be 30,200 Category C prisoners with a capacity for 29,700.⁶⁵ The case, therefore, was initially that there would be a minor national need for Category C prison places by July 2026. However, these figures were, in fact, incorrect as a result of some supposed "glitches" in the system. When addressed, the national position for Category C prisoners was that there would be a forecast need of 32,290 but a supply of 33,250 - meaning there

⁶⁴ CD/J3 pg. 19 & CD/J2 para 15

⁶⁵ CD/E2 paragraph 5.7

would be an oversupply of 960 (and this is before any further supply of 1715 places from the Garth appeal is added on).⁶⁶

- 7.9 Taken at face value, this means that far from the picture of pressing demand the appellant sought to present, there would be a significant surplus of prison places for Category C prisoners that would amount to roughly 2/3rds of the cells in the appeal proposal lying empty. An oversupply of 960 was likely a significant underestimation of how large the oversupply would be for the following reasons.
- 7.10 First, Mr Smith confirmed in cross-examination that the national supply line of Category C prison places set out in the addendum to his Proof was the result of adding all the places identified to the current supply.⁶⁷ Mr Smith agreed that the table stated that there would in fact be a supply of 34,146 by July 2026 (given it showed 7,186 places to be delivered). This would result in a national oversupply of 1,856 Category C places by July 2026. To put that in perspective, that would mean that the entire appeal proposal and at least one other houseblock would be sitting empty come July 2026.
- 7.11 Mr Smith eventually suggested that the difference in calculations (33,250 vs 34,146) was due to a number of places at HMP Five Wells already being counted as part of the supply. Indeed, Mr Smith resorted to a highly confusing position, asserting that the methodology of the Addendum was clear, apart from with regards to Five Wells. Given the lack of evidence to support Mr Smith's assertion, the only conclusion that can be credibly drawn from the evidence before the Inquiry is that there will be a national oversupply of at least 1,856 Category C places come July 2026. Even on Mr Smith's bare and unexplained assertion there will be an oversupply of at least 960.
- 7.12 In both calculations, this is before 1,715 further places that may be forthcoming from the Garth proposal are added in. Overall, therefore the surplus may be as high as 3,571. If Mr Smith's assertion that the surplus is 960 is taken the overall surplus could be as high as 2,675 when the places proposed at Garth are included.
- 7.13 Second, Mr Smith explained that these demand figures were based on the MoJ's "Prison Populations Projections 2021 to 2026, England and Wales".⁶⁸ These projections showed a total prison population of 78,318 in July 2021 and projected populations of 84,800 for July 2022 and 89,500 for July 2023.⁶⁹ Those projections alone predict an increase in the total prison population of 19,182 from July 2021 to July 2025, a quite astonishing increase of 24.45% of the total prison population in the space of merely 4 years.
- 7.14 The data does not substantiate this projected rate of increase. Prisoner headcounts presented to the Inquiry show total prisoner populations of 79,086 on 7 January 2022 increasing to 82,176 on 30 December 2022. These numbers are substantially lower than the projections, showing an actual

⁶⁶ INQ21 paragraph 2

⁶⁷ INQ21 paragraph 3

⁶⁸ CD/J6

⁶⁹ CD/J6 pg. 4, Table 1.1

increase of 3,090 prisoners for the year 2022 compared to the projected increase of roughly 6,000 a year.⁷⁰ Mr Smith tried to explain this lower than anticipated rise due to a number of “*short-term effects*”, in particular the criminal barristers strike and the impacts of Covid.

- 7.15 Looking at the assumptions underlying the modelling it simply is not clear how it can be concluded with any confidence that these will lead to the forecast rise.⁷¹ In particular, it is plainly logical that an increase in police officers will have a deterrent effect on potential offenders rather than result in more prisoners being caught and, similarly, there is no indication of when the Court backlog will clear.
- 7.16 These are both points the Inspector for the HMP Garth and Wymott Inquiry relied upon in concluding that there were “*several uncertainties with the projections of prison places nationally [and] the future capacity of the system.*”⁷²
- 7.17 Whilst the addendum does include a number of prisons in the supply line that have been granted permission, it does not include HMP Garth and Wymott. Whilst it is acknowledged that permission has not been granted, the decision of the Secretary of State is that he is minded to allow the appeal contrary to the recommendation of the Inspector and grant planning permission subject to highways issues being satisfactorily addressed. On the assumption that those matters will be addressed, there will be provision of a further 1,715 Category C places nationally. As noted above, this would further exacerbate the national oversupply.
- 7.18 Whilst the appellant argued that there was a benefit to this oversupply in that it would increase “*resilience*” it is simply far too simplistic to suggest that this is a benefit which should attract the same amount of weight as meeting a “*pressing*” need.
- 7.19 The appellant’s case has consistently been that the justification for this prison, and indeed the programme of prison-building of which this is a part, is the pressing national need. Yet, on the appellant’s own numbers that extremely high forecast of need is now going to be met – a hardly surprising consequence of the MoJ having embarked upon this programme.
- 7.20 Whilst “*resilience*” may be desirable for the MoJ, it is clearly a matter of an operational element they want rather than something they actually need. Plainly this cannot attract the same weight as building to meet a need, no matter how suspect the modelling underpinning it.
- 7.21 It was agreed between all parties that there was a significant issue with recruitment into the prison service. This applies on a national level. This is far worse locally – evidence was given that there were 10 prisons within a 40 mile radius of the appeal site, and that prisons in the area were facing

⁷⁰ CD/J11 & CD/J10

⁷¹ CD/E2 para 3.2

⁷² INQ 7 paragraphs 13.47-51 & 13.57

substantial difficulties with staff retention.⁷³ Both Mr Cook and Mr Smith referred to two initiatives ('Advance Into Justice' and 'National First Posting Relocation Campaign') which, they said, showed that steps were being taken to address this hiring crisis.

- 7.22 It transpired that only one of them had actually even been launched. The National First Posting Relocation Campaign was predicated on attracting individuals to hard to recruit to locations, including prisons near to the appeal proposal, by offering substantial financial benefits on top of employees' salaries to cover expenses. Properly understood, these only further emphasise the difficulty in recruiting in the area and suggest that building the appeal proposal for the sake of national resilience may in fact take further staff away from the multitude of prisons already in the immediate area and underline that the appeal proposal is in the wrong location. When properly analysed, it is clear that building for the sake of resilience is not the benefit the appellant tried to make it out to be but instead a negative factor.

Regional need for Category C

- 7.23 Given there is no case on national need, the appellant's case on need rests solely upon the amended regional need figure of 590 places for Category C prisoners in the South East (which in fact covers the extremely large four probation regions of the South West, South Central, London and Kent Surrey and Sussex taken together). However, there are a number of fundamental issues with this position which, mean that limited, if any, weight should be placed on meeting this supposed regional need.
- 7.24 First, even taken at face value, this regional need is substantially lower than the amount of places that would be provided by this prison. Even if there was in fact a need for 590 places, the appeal proposal would result in an oversupply of 878 places, providing nearly three times the projected need. This position undermines the basis upon which this appeal has been brought and the planning balance carried out – namely to meet a pressing need for prison places. It also presupposes that building more prisons is necessarily a benefit, whilst failing to consider the realities of the recruiting crises and deep-seated issues with staff retention in the numerous prisons surrounding the appeal site.
- 7.25 Mr Smith explained that the regional need figure had been calculated by applying the national prison population projections to the Category C prisons in the region.⁷⁴ As demonstrated during the course of this Inquiry and found in the Garth and Wymott Inquiry, the national projections are riddled with uncertainties. They simply do not accord with the actual prison population. These uncertainties necessarily infect the regional projections relied upon.
- 7.26 The appellant failed to adduce any evidence to substantiate the assertion that there was a regional need of 590. Mr Smith acknowledged that there was not

⁷³ INQ 5

⁷⁴ C.f. CD/E2 para 4.11

a single document in the over 300 documents before the Inquiry that would allow for this figure to be interrogated.

- 7.27 Given these fundamental uncertainties, it is wholly inappropriate in the context of this Public Inquiry for the appellant to refuse to adduce the underlying evidence (on the assumption it even exists) and expect the Inspector and the Council to simply accept their word merely pointing to the fact that the numbers have been “signed off” by other Government departments.
- 7.28 The emphasis on regional need can be traced back to the Lord Farmer Report, which concludes that rates of reoffending are lowered by 39% for prisoners who receive family visits compared to those who do not.⁷⁵ This is said to hold especially true for a Category C resettlement prison which is for prisoners who are coming to the end of their sentence and therefore should be reintegrating with society prior to release. Whilst the Council does not challenge this principal, it should be applied with extreme caution in this case.
- 7.29 This is because regional need does not, in fact, mean a prisoner kept a substantial distance from their home postcode. Indeed, Mr Smith explained that prisoner placement is in fact based on home location. This means, for example, that a prisoner from Bicester, which is outside of the South probation region, might be put in a prison in Aylesbury. This would technically mean that a prisoner was kept in the wrong region. However, they might be closer to their family, compared to being in a prison in the correct region which may include a prison in the South West far further away from their home location.
- 7.30 This is apparent from the fact that the regional need for Category C is said to be 590 places across what is effectively the entire south of England. It is simply not credible to suggest that a prison in the appeal site location would be easily accessible for families from Cornwall or Canterbury, and for the reasons given in the transport roundtable it also is not credible to suggest that families would travel from London to the appeal site.
- 7.31 Finally, one string to the appellant’s argument was that the excess places (ie those being provided above and beyond the need of 590) were beneficial because they would allow Category C prisoners who were being kept outside their own region to be moved within it. Putting to one side the issue of whether that even accords with the Lord Farmer Report, for the reasons stated above, this exact argument was also run by the Ministry of Justice in Garth and Wymott.⁷⁶
- 7.32 It is plain that this is a managerial and organisational issue that the prison service and appellant needs to get to grips with. There is obviously capacity in the north of the country and many of those prisoners located outside those

⁷⁵ CD/J19 pg. 4

⁷⁶ INQ 7, para 13.55

regions should be moved there. This would free up places in the south so that those held outside that region could be moved there.

- 7.33 Whilst it may not necessarily be so simple as swapping those prisoners around, there is clearly an issue with having prisoners in the wrong locations. This is not a capacity issue but rather an issue of management and resource allocation for the prison service. There was no evidence given that the MoJ had considered this and rationalised the movement of prisoners to the correct regions based on the acknowledged national surplus in places. This is a serious issue. Before seeking even more so called "*resilience*" the appellant needs to apply rigour to its own processes and placement within its existing estate and that due to come forward.
- 7.34 Given no evidence was adduced to contradict any of the above, the Council's case is that no weight can be given to the desirability of moving prisoners from outside of the South to within it as it appears highly likely that this is an organisational failure rather than a matter of need.
- 7.35 For all of these reasons, only limited weight should be placed on the supposed benefit of the appeal proposal meeting the uncertain and unverifiable regional need figure asserted to be 590.
- 7.36 For completeness, there is nothing in the HMP Garth and Wymott decision which indicates that a different view should be taken. Indeed, the Inspector concluded that moderate weight could be given to this consideration because "*there is a need for more prison places in the general sense.*"⁷⁷ However, the situation has moved on since then. Now, on the appellant's own case, there is not a need for more Category C prison places in the general sense. Rather, there is a significant surplus. Similarly, the factors relied upon by the Secretary of State in giving significant weight to the need for that proposal do not apply here. It is not accepted that the appellant has made out the case that there is a localised need.
- 7.37 Furthermore, whilst there may have been a benefit attached to localised provision in a single probation region such as the north-west, the same benefit simply does not apply when considering the four southern regions as is relied on here, given the vast distances that, in the words of Mr Smith, are "*not insurmountable*" for families who may wish to visit relatives.

Alternative sites / site search

- 7.38 There are also considerable doubts about the properness and robustness of the site search process which resulted in the appeal site being chosen. When taken through the site selection criteria, Mr Smith accepted that the appeal site failed to meet the majority of them, notably:
- The appeal site is considerably larger than 12ha in order to achieve a developable area of 12ha;
 - b. It is not flat;
 - c. It does not have good strategic access;

⁷⁷ INQ 7, para 13.57

- d. It is mainly greenfield;
- e. It is not easy to recruit;
- f. There are plenty of historic designations; and,
- g. There are at least two important PRoWs.⁷⁸

- 7.39 Indeed, the one common theme behind each of the new prisons being brought forwards (Full Sutton, Gartree, the appeal proposal, Garth and Wymott, Five Wells, Fosse Way, Channings Wood) is not that they meet the stated search criteria for new prison locations but rather that they are all on MoJ owned land.
- 7.40 The problem with this, of course, is that it undermines the credibility of the appellant's assertion that a prison is needed here, or indeed at all. Having regard to all the factors identified above, the far simpler and more coherent solution is that the appellant has launched an aggressive programme of prison building in response to the Conservative Manifesto and subsequent White Paper, purportedly substantiated by wildly high projections and issues with the existing prison estate which have not been evidenced and in any event do not amount to need. In order to quickly deliver these new prisons the MoJ is forcing them onto land it already owns, rather than seeking sites which are actually appropriate for this type of new development.
- 7.41 Had the appellant properly applied the site search criteria it is inconceivable that this location would have been chosen given the numerous issues with the appeal site and the wider area which is already inundated with prisons.

Landscape

The Appeal Site

- 7.42 Despite its prominent location, Ms Bolger explained that the existing landscape does not read as one dominated by prisons. Rather, the prisons sit within the landscape. This follows from a number of notable features when considering the landscape as a whole. It has a network of footpaths most of which benefit from a significant landscape buffer between the prison and the footpath. There are undeveloped areas within the existing prisons as well as around them, meaning that the wider area has a rural feel. Of fundamental importance is the fact that the undeveloped land around the existing prisons prevents them from having the determining impact on the landscape which the appeal proposal would have.
- 7.43 At present, the tallest existing building at the prison complex is Grendon Hall which has a height of 103m AOD, with the next tallest building being the green roofed building towards the north of the existing site with a height of 99m AOD ('the Green Building'). Ms Bolger explained that the Green Building

⁷⁸ CD/E2 Annex A para 2.2

is apparent from viewpoints across the wider landscape but, as already stated, the landscape does not read as one dominated by a prison.

- 7.44 The appeal site is located within a Wooded Rolling Lowlands landscape character type (LCT) and includes parts of two landscape character areas (LCA) within this LCT. The western, larger part of the site and the existing prison buildings are within LCA 7.1 Poundon - Charndon Settled Hills. The easternmost part of the site is within LCA 7.4 Kingswood Wooded Farmland.⁷⁹ Ms Bolger explained that the appeal site contains distinctive elements of both LCA 7.1 and LCA 7.4. With regards to LCA 7.1, the ridge and furrow on the North Park is particularly notable, and generally both areas are assessed as being in good condition with moderate sensitivity. The guidelines for both LCAs are to conserve and reinforce landscape character.⁸⁰
- 7.45 It was put to Ms Bolger in cross-examination that LCA 7.1 makes no reference to Grendon Hall, the implication being that the lack of reference to Grendon Hall within LCA 7.1 meant that no landscape value was derived from the cultural heritage of Grendon Hall and its surrounding parkland. However, as explained by Ms Bolger, it is plainly not the case that an assessment of a landscape is somehow fettered by or bound to a Landscape Character Assessment. What is important is what is present. There is no reason why the importance of Grendon Hall should be downgraded because it was not mentioned by a previous author. This is all the more true where new heritage information has been brought to light after the drafting of the LCA. In this instance, given all the evidence that the parties now have about Grendon Hall, the correct approach is clearly to include it, and the surrounding parkland, in an assessment of the landscape value rather than disregard it for lack of reference in the Landscape Character Assessments.⁸¹
- 7.46 In relation to LCA 7.4, it was put to Ms Bolger that it does not identify "key views". However, the question is not simply whether LCA 7.4 identifies key views or not. Rather, as explained by Ms Bolger, the distinctive features identified are in fact broad views from LCA 7.4 over the surrounding area. Beyond these views, one notable feature of LCA 7.4 which is currently present on the appeal site is that it *"remains a good quality landscape... it retains a good sense of place and sometimes has a remote slightly hidden character"* – Ms Bolger pointed to parts of footpath 14 and bridleway 13 as having this tranquil character.
- 7.47 As shown in Figure 9B, there are a number of public footpaths and bridleways going through and around the appeal site, with Figure 12 showing the existing buffer between the appeal site and the footpaths.⁸² Presently, these footpaths offer an attractive network of rights of way around the surrounding landscape which, importantly, benefit from a significant landscape buffer between them and the existing prisons – with the buffer between footpath GUN/17/1 and footpath EDG/11/2 and the prison ranging from 150 to 235m. These footpaths are enjoyed as rural walks rather than being experienced as

⁷⁹ CD/F2 pg. 7, Figure 4

⁸⁰ CD/F2, para 3.4.2

⁸¹ CD/B13

⁸² CD/F2 Appendices

footpaths running adjacent to an urbanised landscape, dominated by large prisons.

The Appeal Proposal

- 7.48 The appeal proposal is of a scale and extent that will have a negative impact on the landscape. The proposed development would more than double the footprint of the existing prisons and is therefore much larger in scale. Ms Bolger observed that the proposed workshop is about four times the size of the Green Building and the proposed central resources hub would be about twice the size of the Green Building which is already very noticeable from the wider landscape due to its scale and height. These increases in footprint are not just limited to these two buildings but can be seen across the entire appeal proposal, with all of the buildings on the northern parcel appearing to be significantly larger than what is there presently.
- 7.49 The height of the proposed buildings would also be greater. Whilst Grendon Hall is 103m AOD, as noted by Ms Bolger this has an attractive roofscape and presents a stark contrast to the Green Building which, as stated above, is 99m AOD. The appeal proposal would introduce a number of buildings of roughly this height, but with a much larger footprint. The workshop would be 97.8m AOD, a very similar height to the Green Building, but would be four times larger. Numerous other buildings on the northern parcel would be above 95m AOD. Similarly, the houseblocks on the eastern parcel would vary from 94-98m AOD. All of these figures were arrived at taking into account levelling proposed.
- 7.50 The large buildings across both the northern and eastern parcels would be of a nearly uniform height, similar in height to, if not taller than, the vast majority of pre-existing buildings, but with much larger footprints. It is interesting to note that the appeal proposal, having been re-designed to take into account the topography of the area, would now result in buildings of near uniform heights extending across the northern and eastern parcels. The appeal site would appear as a flat site with tall buildings, rather than a site sloping away from the central ridge. The appeal proposal results in an increased footprint, a massive increase in the scale of buildings, which would either be the same height or taller than the extant buildings. It is this drastic step change in scale which would have the greatest impact on the landscape and views towards the appeal site.
- 7.51 The expansion of the existing prison complex into the surrounding landscape almost entirely removes the buffer between the prisons and the PRow, being reduced to around 30m. In Ms Bolger's view, this would fundamentally change the experience of a user of the footpath, undermining the enjoyment of those currently rural routes and drawing attention away from panoramic views to the north and instead towards the large-scale prison. Indeed, in her view, the impact of the prison would be so great that it may result in users of the footpath feeling uncomfortable with such large buildings being closer to them.
- 7.52 The appeal proposal would also result in substantial changes being made to the character of the North Park, as detailed in the landscape management

plan.⁸³ The access road would be very evident and would sever the relationship between the western part of the site and the field to the north, both in terms of the historic north park and also landscape character and continuity. The same is true for the ridge and furrow. Whilst the loss has been reduced, the appeal proposal would result in less ridge and furrow than exists at present. As such, taking the access road together with the levelling required for the sports pitch and the pond, all of which would remove ridge and furrow, the conclusion must be that the existing character of that area would be completely lost.

Methodology – landscape impacts

7.53 Initially, it appeared to be agreed between the parties that in assessing landscape impacts the approach to be followed was that set out in GLVIA3. However, it became apparent that whilst Ms Bolger had sought to follow this guidance fully, Ms Machin had instead selectively followed this approach. She was only broadly aware of the Technical Guidance Note (TGN).

7.54 Paragraph 5.40 of GLVIA3 states that:

"Susceptibility to change

This means the ability of the landscape receptor (whether it be the overall character or quality / condition of a particular landscape type or area, or an individual element and / or feature, or a particular aesthetic and perceptual aspect) to accommodate the proposed development without undue consequences for the maintenance of the baseline situation and / or the achievement of landscape planning policies and strategies."

7.55 Clearly, therefore, GLVIA3 directs that part of the assessment of a landscape's susceptibility must include consideration of the ability of the landscape receptor to, inter alia, achieve landscape planning policies and strategies. Yet at no point did Ms Machin even purport to assess compliance with landscape planning policies and strategies as part of her assessment of susceptibility.

7.56 The pertinent question is whether, as a matter of fact, Ms Machin's consideration of susceptibility took into account relevant policies as directed by paragraph 5.40 of GLVIA3. When faced with that question, Ms Machin answered, as she was bound to, that it had not. This undermines her assessment of the susceptibility of the appeal site. Ms Machin fairly agreed with Ms Bolger's conclusion that the appeal proposal would not be consistent with the Development Plan.

The assessment of landscape impacts that should have been undertaken

7.57 The approach is outlined in Table 3.1 of GLVIA3.⁸⁴ This step-by-step approach outlines how the significance of landscape effects can be assessed, and requires individualised assessments of sensitivity, itself a combination of

⁸³ CD/G7

⁸⁴ CD/H6 pg. 27

susceptibility and value, and magnitude of effect before then combining them to reach a conclusion on significance of effects.

- 7.58 Both experts were in agreement that the magnitude of change was high, however due to their differing assessments of sensitivity, with Ms Bolger assessing the sensitivity of the appeal site as medium / high and Ms Machin assessing the as low to medium.⁸⁵ Ms Bolger concluded that there would be a major adverse impact on the landscape reducing to moderate / major adverse after 15 years, whilst Ms Machin's assessment was of a moderate adverse impact in both the short and long term.⁸⁶ The difference in conclusion can easily be attributed to differences in approaches adopted. Whilst Ms Bolger fully followed GLVIA3 and made sure to take into account all relevant factors, Ms Machin failed to properly follow certain stages entirely or at all and failed to take into account certain agreed landscape features.
- 7.59 The first area of disagreement between the parties was in relation to the value of the landscape. Box 5.1 of GLVIA3, which sets out a range of factors that can help with the identification of a valued landscape, has been clarified by the range of factors identified in Table 1 of the TGN.⁸⁷ Indeed, in evidence in chief Ms Machin tried to characterise her proof as containing a number of errors in relation to her value assessment. Ms Machin's evidence failed to properly consider the value of the landscape in relation to cultural heritage, distinctiveness and perceptual (scenic). When taken through the TGN, Ms Machin accepted that:
- a. The North Park is parkland associated with Grendon Hall;
 - b. The NDHA forms part of the setting of Grendon Hall; and,
 - c. The ridge and furrow on the North Park indicates a sense of time depth.
- 7.60 She further accepted that in considering the value of the landscape she had not considered any of these factors and, furthermore, agreed that she had not dealt with cultural heritage properly. Had Ms Machin properly had regard to these relevant factors her conclusion on landscape value, insofar as it relates to cultural heritage, would have been higher than the assessment carried out in her proof.
- 7.61 With regards to distinctiveness Ms Machin's approach was to discount the presence of ridge and furrow because it was not "*rare*". Yet it is plain this disregard the TGN, which states that one example of an indicator of landscape value is the "*Presence of distinctive features which are identified as being characteristic of a particular place.*"⁸⁸ As a matter of logic, Ms Machin's requirement for rarity would make it impossible for features which are "*characteristic of a particular place*" to be distinctive given, by their very nature, they are sufficiently common to be characteristic. However, when questioned Ms Machin did accept that ridge and furrow should have been

⁸⁵ CD/F2 paragraph 6.7.3 & CD/E3 paragraph 3.55

⁸⁶ CD/F2 paragraph 6.7.4 & CD/E3 paragraphs 3.55-56

⁸⁷ CD/J14 pp. 7-11

⁸⁸ CD/J14 pg. 9

highlighted as part of her assessment of distinctiveness because it reflects a “common sense of identity” across the local landscape.

7.62 This underscores yet another failing in Ms Machin’s assessment of value, as was also true for Ms Machin’s consideration of scenic value, which at the relevant paragraph highlighted the negative aspects of the landscape without identifying the positives.⁸⁹ Had these matters been properly considered, as they were by Ms Bolger, the conclusion that should have been drawn is that the landscape is in fact of medium value.

7.63 With regards to the susceptibility of the landscape, there were two primary differences between the parties. The first, as already discussed, was Ms Machin’s failure to consider policy compliance as required by paragraph 5.40 of GLVIA3. The second was whether an assessment of susceptibility was required to have regard to “*the specific development proposed*” or whether, it should instead be assessed more broadly against just the “*nature*” or “*type*” of project. Ms Bolger had applied the former approach, Ms Machin the latter. There was no disagreement as to that approach that had been taken, merely the correctness of it.

7.64 The Council’s case is that paragraph 5.42 of GLVIA3 is abundantly clear on this. It states, that:

“Some of these existing assessments may deal with what has been called ‘intrinsic’ or ‘inherent’ sensitivity, without reference to a specific type of development. These cannot reliably inform assessment of the susceptibility of change since they are carried out without reference to any particular type of development and so do not relate to the specific development proposed. Since landscape effects in LVIA are particular to both the specific landscape in question and the specific nature of the proposed development, the assessment of susceptibility must be tailored to the project. It should not be recorded as part of the landscape baseline but should be considered as part of the assessment of effects.”

7.65 It is not enough to merely point to the “*type*” or “*nature*” of development, rather consideration must be of “*the specific development proposed*” as it must be “*tailored to the project.*” The appellant’s approach, that regard does not have to be given to the application, runs roughshod over this and instead simplifies the consideration of susceptibility to the “*type*” of development. It cannot sensibly be said that a housing development of 5 houses is similar in nature or type to a development of 2,000 houses, yet on the appellant’s reading the essential facts of the project have to be disregarded. It was telling that, when asked what prison was used as the idealised “*type*” for her assessment of susceptibility Ms Machin could provide no reasons for why she pointed to HMP Grendon but not HMP Springhill, whilst being very different prisons and designs. On a fair and logical reading, GLVIA3 requires

⁸⁹ CD/E3 para 3.39

consideration of the “*specific development*” rather than the broad, unspecified nature of development.

- 7.66 In support of its approach, the appellant sought to rely on a document entitled “GLVIA webinar Q&As”.⁹⁰ Unlike the TGN, this document is not official guidance and has not been consulted on but rather is a summary of oral discussions. Properly, there was no suggestion that this document supersedes GLVIA3.
- 7.67 The appellant sought to rely on the answer to question 41 which indicates that susceptibility had to be limited to the “*type*” of the development. However, there are two fundamental problems with this position. First, this fails to have regard to the remainder of the document. For example, the answer to question 27 emphasises that landscape assessments must be based on reasonable judgments and not divorced from reality. As explained by Ms Bolger, to suggest that the assessment of susceptibility of a development of this scale and extent should not have regard to that in considering susceptibility is unreasonable. Second, the webinar does not change or even purport to change the wording of GLVIA3 or the TGN. Regardless of the view expressed in the webinar, it cannot alter the clear and explicit wording of paragraph 5.42 of GLVIA3 that susceptibility should have regard to “*the specific development proposed*” and be “*tailored to the project*”. Whichever way one tries to read it, it is apparent that answer to question 41 is directly opposed to paragraph 5.42 of GLVIA3. Given the respective status of these documents, no weight can be placed on answer 41 of the webinar.
- 7.68 Ms Machin’s assessment of susceptibility fails to consider the “*specific development proposed*” as well as failing to consider compliance with policies. No weight can be given to Ms Machin’s conclusions in light of these stark failures. Rather, the conclusion of Ms Bolger that the appeal site has a medium / high susceptibility must be preferred as it is the only conclusion before the Inquiry that applies GLVIA3 properly.
- 7.69 Consequently, the sensitivity of the site must incorporate Ms Bolger’s conclusions on value (medium) and susceptibility (medium / high), thereby leading to the conclusion that the sensitivity is medium / high. Taken together with the agreed magnitude of change (high), the Council therefore submits that the significance of landscape effects must be assessed as major adverse lowering to moderate / major adverse after 15 years. Ms Machin’s conclusion cannot be adopted given the many failings feeding into it, as identified above.

Methodology – visual impacts

- 7.70 There was markedly more agreement between Ms Bolger and Ms Machin with regards to the significance of visual effects resulting from the appeal proposal on users of public footpaths, Perry Hill, users of PRoWs and users of Grendon

⁹⁰ INQ 12

Road. Conclusions on the impact should be drawn from oral and written evidence, the visualisations before the Inquiry and the site visit.

- 7.71 With regards to the visualisations, Ms Bolger explained that they were reliable subject to three issues – first, the failure of the visualisations to show windows, second, the failure of the visualisations to show sky glow, and third, a glitch in the visualisation from Viewpoint 13. The issue caused by the first two is that they significantly reduced the perceived impact of the appeal proposal on these visual receptors. This reduction in impact was particularly notable when comparing the night-time visualisations against the photographs of HMP Five Wells at night.⁹¹ The HMP Five Wells photograph shows the prison lighting the sky around it, causing significant levels of “sky glow”, whereas the appeal proposal visualisations failed to even acknowledge this visual impact. Ms Machin tried to suggest that night-time impact from the appeal proposal would be limited because, on her understanding, a prison has its lights turned off at night. However, the photograph of HMP Five Wells shows a high degree of light polluting the sky. The only reasonable conclusion is that the appeal proposal would cause similar degrees of skyglow, which would be all the more noticeable given the highly prominent location and design of the appeal proposal.
- 7.72 Whilst Ms Machin sought to suggest that the most significant visual effects would be “*limited and localised*”, when pressed she conceded that these effects would be apparent from at least 560m away. Ms Bolger’s view was that the localised impacts would be appreciated up to 1km away.⁹² As such, the starting point for the assessment of visual effects caused by the appeal proposal is that there would be “*significant*” harm caused to localised receptors at least 560m away, working up to Ms Bolger’s assessment that these impacts would be felt up to 1km away.
- 7.73 When proper consideration is given to the visualisations along with an appreciation of the full scale and extent of the appeal proposal, the Council’s case as outlined by Ms Bolger is that the visual effects will be as follows:
- a. People on footpaths 17 and 11 which run along the northern edge of the prisons complex would experience a major adverse effect. (LVIA Viewpoints 4, 5, 17 and also GU Visualisation 19 which is from footpath 1);
 - b. People on Perry Hill (MB Viewpoint A), the PRoW above Lawn Hill Farm (MB Viewpoint B) and from the PRoW that runs north above St Michael’s church would experience a major adverse effect (GU Visualisation Viewpoint 3);
 - c. People on footpath 14 and bridleway 13 east and south east of the prison would experience a major adverse effect. (GU Visualisations Viewpoint 18A and 7);

⁹¹ CD /J40

⁹² CD/E3 paragraph 5.28

- d. People walking north on footpath 17 south of the prison would experience a moderate/major adverse effect. (GU Visualisation Viewpoint 13); and,
- e. People on Grendon Rd and footpath 16 west of the prison would experience a moderate adverse effect. (LVIA Viewpoint 6 - no visualisation has been prepared from this location.)

7.74 Whilst the proposed planting would mitigate some of the visual effects caused over time, the appellant's witnesses agreed with Ms Bolger that the extent of planting shown on the 15-year visualisations was unlikely to be realistic. Fundamentally, whilst the proposed mitigation planting would help to soften views of the development by filtering views of the lower parts of the new buildings, primarily in views from the north and east /southeast, the effects of the appeal proposal would not reduce significantly in the long term given the scale of the buildings proposed, the dominance of these buildings in views, and the likelihood that mitigation planting would not screen the buildings. The landscape would be dominated and defined by three prisons.

Heritage

- 7.75 Harm to heritage assets, both substantial and less than substantial, creates a " strong presumption against the grant of planning permission." (*R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin) [55]*). In *R (Lady Hart of Chiltern) v Babergh District Council [2014] EWHC 3261 (Admin), Sales J.*
- 7.76 The starting point is that both parties agree that the appeal proposal would harm heritage assets, namely the Grade II listed Grendon Hall, the NDHA Grendon Hall Gardens and the Grade II listed Lawn House. Whilst the parties disagree on the levels of harm caused to each of those assets, as a result of this agreed harm there is a strong presumption against permission being granted.

Grendon Hall

- 7.77 Grendon Hall was listed on 26 February 1985, after the prison complex was established in the 1950s. Joanna Horton and Dr Miele largely agreed about the setting of the Hall and what it derived its significance from, with Dr Miele summarising the contributing factors of the Hall's setting as including: (i) the stableyard to the back of the Hall; (ii) the walled garden to the south; (iii) the Gate; (iv) the drive leading to the Hall which abuts the North Park; (v) the location of the Hall on the high hill; and, (vi) the North Park. Dr Miele's view was that the primary issue between the parties in their differing assessments of harm to Grendon Hall was the level of contribution made by the North Park to the significance of the Hall.
- 7.78 Grendon Hall together with the North Park dates to the late 19th century. As shown in OS Maps, the land around the Hall was turned into parkland. The area of this original parkland is the land designated as a NDHA together with the housing development immediately south of the access road. There is no

dispute between the parties that the Park was not ornamentally laid out. Rather, the changes were more reserved – including the creation of a lawns, creation of a gated access, alterations to boundaries to create open pasture to the north and south parkland and the thinning of trees to create some view lines. However, whilst perhaps more modest than some other parks, the clear effect of these works was to create an area of parkland around Grendon Hall associated with the Hall. Simply put, these works changed an arable landscape into one which read as parkland surrounding, and associated with, the newly built Grendon Hall.

- 7.79 Whilst there have been some changes to the parkland, most notably the housing built on a portion of the South Park, the Garden Trust, a statutory consultee, concluded in accordance with the Buckinghamshire Gardens Trust ('BGT') that "*key elements of the designed landscape remain*" despite those localised developments.⁹³ In other words, a visitor to the appeal site would be able to appreciate the North Park as parkland designed for and laid out around Grendon Hall. Further, the fact that the North Park was described by Dr Miele as a "remnant" does not change whether it contributes towards the significance of the Hall.
- 7.80 Grendon Hall sits at the centre of this parkland with elevated views over the landscape. Dr Miele agreed that the Hall was elevated to enjoy views to the south and west. These external views are shown in the BGT report on Grendon Hall.⁹⁴ As can be seen from those images, along with images appended to Ms Horton's evidence, these views include westerly views looking across the North Park towards the wider landscape.⁹⁵ Whilst there was some disagreement as to whether these views might be appreciated from the Hall due to tree cover, it is notable that BGT concluded that the views which extend west over the North Park are "*framed by ornamental C19 trees*". In other words, far from occluding the views, this planned planting in fact served as an important design feature to emphasise and bring to light these views.⁹⁶ Taking the evidence as a whole, the Council's case is that views west over the North Park include views from Grendon Hall. Plainly, these views would encompass the North Park.
- 7.81 As well as these internal views, the BGT report identifies two external views up the North Park towards the Hall from Grendon Road.⁹⁷ Whilst Dr Miele challenged whether the Hall could be seen from the more southerly of the two identified view points on Grendon Road, these have clearly been identified as "*important external views*" in the BGT Report. They are substantiated by photographic evidence which shows views from Grendon Road across the western development parcel towards Grendon Hall.⁹⁸
- 7.82 These views were not just static but, as explained by Ms Horton, kinetic as visitors to the Hall would travel along the drive through the park up towards

⁹³ CD/B11, B12

⁹⁴ CD/B13, pg. 19-20

⁹⁵ CD/F3, pg. 32 Figure 16

⁹⁶ CD/B13, pg. 9

⁹⁷ CD/B13, pg. 19

⁹⁸ CD/F3, pg. 32 figure 15

the Hall.⁹⁹ Fairly, Dr Miele accepted that visitors to the Hall would be presented with glimpsed views of the Hall and park as they travelled along the access road to the Hall. Again, these views afforded to visitors allow for the significance of the Hall to be appreciated.

- 7.83 Accordingly, the evidence was that the North Park, whilst previously part of a “sweeping whole” that has been interrupted by the introduction of housing on a section of the South Park, is an important part of the setting of Grendon Hall which provides important and attractive views in a number of directions, both internally and externally. Properly understood therefore, the evidence appears to largely support the reasoning which led the BGT to conclude that the North Park is of “high significance”, namely that:

“The North Park lies west of the Hall and gardens, and north of the main historic drive from the lodge to the Hall. It is of high significance to the ornamental designed landscape for the following reasons:

- a) As parkland within the 1880s ensemble when both Hall and grounds were created. It formed part of a sweeping whole, along with the South Park south of the main drive.*
- b) As the immediate setting for the most important element of the designed landscape: the garden to the west and south of the Hall.*
- c) As the setting for key extensive views from the Hall west and south-west to distant Otmoor and Graven Hill near Bicester.*
- d) As the setting for key views from the circuit path around the garden perimeter, particularly from the west end of the main garden terrace, a viewpoint which was formerly marked by a feature which probably included a seat to enjoy these views (OS, 1900).*
- e) As the immediate northern setting for the Listed Grade II gateway and main drive, facilitating bucolic views of the Hall in the main approach.*
- f) As the frame for distant views of the elevated Hall and gardens from the public road, particularly north of the Lodge leading into Edgcott.”¹⁰⁰*

- 7.84 The appeal proposal seeks to introduce a number of alien features to the North Park. As set out in the landscape masterplan these alien features are:

- a) The introduction of acoustic fencing that would bifurcate the North Park along the lines of ownership;
- b) The introduction of an extensive road and access which would “sever” the North Park, impact views and introduce traffic which would have a harmful impact on heritage assets;
- c) A marked-out sports pitch which would require levelling; and,
- d) The introduction of a pond.¹⁰¹

- 7.85 Dr Miele agreed that the first three of these would have an “urbanising effect” that would harm the contribution made by the North Park to the significance

⁹⁹ CD/F3, pg. 9 paragraph 3.8.4

¹⁰⁰ CD/B12, pp. 1-2

¹⁰¹ CD/G6

of Grendon Hall. Individually and together the effect of the acoustic fencing and access road would be to divide the North Park in half, enclose it and lose glimpsed views of the North Park from the access road. In so doing, the North Park would lose key elements that it currently has. In turn this would harm the relationship between North Park and Grendon Hall. Each of these plainly impacts matters of significance already identified and, as discussed, largely agreed in principle.

7.86 Whilst it might be correct to conclude that views would not be blocked or occluded (other than the loss of glimpsed views along the access road) subject to planting this is not the point. The point is that views taking in the North Park, both towards the Hall and away, contribute towards the significance of the Hall. The accepted "*urbanisation*" of the North Park would radically alter those views, regardless of whether the background views are occluded or not. It necessarily follows, therefore, that the appeal proposal would impact the views identified by the parties and the BGT as one of, if not the key, contribution made by the North Park to Grendon Hall.

7.87 As set out by Ms Horton, when considered fully these changes would result in a high level of less than substantial harm to Grendon Hall due to an unacceptable intensification of scale, massing, layout, and light pollution from the development proposal which is considered to be inconsistent with local character and out of place in this rural countryside context. The appeal proposal would also result in total loss of an important and substantial section of the NDHA relating to Grendon Hall and would adversely impact on key designed views across the North Park and into the wider landscape from the immediate setting of the Hall.¹⁰²

The NDHA

7.88 The land surrounding Grendon Hall was laid out contemporaneously with the construction of Grendon Hall as parkland, transforming the previous arable landscape into a parkland setting enclosing the Hall. The result of this was to create a parkland which was described by the Gardens Trust acting in their expert capacity as statutory consultee, as a "*hugely significant*" site.¹⁰³

7.89 The BGT report provides the basis for the Council's assessment of the NDHA and its inclusion on the Council's local list. The North Park presently provides an unspoiled parkland landscape buffer on sloping land between Grendon Hall and the village of Edgcott which will be fundamentally altered by the appeal proposal.

7.90 Furthermore, the North Park, and indeed much of the NDHA, retains evidence of medieval ridge and furrow earthworks. Whilst Dr Miele appeared to be dismissive of the importance of the ridge and furrow, describing it as a common feature, this misses the point. The question in terms of heritage value is not simply whether something is common or not, but rather whether a feature contributes towards the historic significance of an asset, regardless

¹⁰² CD/F3, pg. 16 para 4.4.1

¹⁰³ CD/B11 pg. 1

of the rarity or otherwise of that feature. On the pertinent question there appears to be no disagreement – the presence of ridge and furrow is a historic feature tracing back to medieval times. Arguably it is all the more important for its common nature in the area. The loss of ridge and furrow on the North Park resulting from the appeal proposal would cause “*irreversible harm*” to the NDHA given it entails the permanent loss of a historic feature.¹⁰⁴

- 7.91 As such, and as outlined by the Gardens Trust as well as Ms Horton, the appeal proposal would “cause significant, irreversible and highly harmful damage to the fabric and character of Grendon Hall designed landscape and to the northerly setting.”¹⁰⁵ It is trite law that the views of the Gardens Trust, as statutory consultee, should be given significant weight unless clear and cogent reasons are given for departing from them. Plainly no clear and cogent reasons have been provided for departing from that view. Indeed, the evidence substantiates this position – that the appeal proposal would cause substantial harm to the large area of North Park because it would result in the total loss of an important and substantial section of the NDHA.

Lawn House

- 7.92 Lawn House backs onto the appeal site and is shown on the 1899, 1900 and 1952 OS maps as the Rookery before being then referred to as Lawn House on the 1984 OS Map.¹⁰⁶ It is a 17th century farmhouse that is situated in a rural location, described by the appellant as being “*semi-isolated*”, and the evidence given was that there used to be an access to Grendon Hall from (or near) to Lawn House following the gradient of the land. The parties agreed that Lawn House derives its significance, at least in part, from its isolated and rural nature and connection to Grendon Hall.¹⁰⁷
- 7.93 The access road to the new prison within the North Park would be flanked by the urbanising and harmful acoustic fencing. This would serve to functionally sever Lawn House from the appeal site via the introduction of alien elements to the rural landscape. The road and fencing would undermine that link and would also result in noise, traffic and other harmful impacts on Lawn House.
- 7.94 Indeed, Dr Miele’s proof originally only considered harm to Lawn House in terms of traffic impacts, relying on his belief that there would be no intervisibility between Lawn House and the appeal site to say there would be no other harm.¹⁰⁸ In evidence in chief Dr Miele also acknowledged that there would be a change, albeit of a low order, to the agricultural land setting of Lawn House. As such, the Council and the appellant agree that the appeal proposal would result in a low order of less than substantial harm to the heritage asset by virtue of the intensification of development, urbanisation of

¹⁰⁴ CD/B11 pg. 4

¹⁰⁵ CD/B12 pg. 2

¹⁰⁶ CD/E6, appendix 2.0 pg. 13, 15, 17 & 18

¹⁰⁷ CD/E6, appendix 2.0 pg. 30

¹⁰⁸ Chris Miele PoE paras 8.8-24

its agricultural setting and introduction of traffic into a currently tranquil “*semi-isolated*” location.

- 7.95 Having dealt with the assets where harm is agreed, there remain a number of assets on which the parties do not agree on the principle of harm.

Gate Piers

- 7.96 The separately listed gate piers stand at the entrance to Grendon Hall on Grendon Road. These lead to the formal drive which, as discussed above, provides glimpsed views of the North Park before leading to the Hall. This is the principal entrance to Grendon Hall and is appreciated as such. It is not in dispute that the significance of the gate piers is derived in part from its role as principal entrance.
- 7.97 The significance of the gate piers is also derived from the long views provided by the gate piers of Grendon Hall, including those “glimpsed” views of the North Park.¹⁰⁹ As such significance cannot be limited to the now lost connection between the gate piers and the Lodge which was on the northern side of the entrance.
- 7.98 As explained by Ms Horton, these views would be impacted by the appeal proposal. Moreover, the simple fact is that the appeal proposal would result in the introduction of an entrance on Grendon Road which would visually compete with the gate piers. This would further reduce the significance of the gate piers.
- 7.99 This was not an assessment that was originally carried out by Dr Miele, as his conclusion was that the gate piers would in fact be enhanced by a separate planning application for the walled garden which would result in the restoration of the gate pier.¹¹⁰ Dr Miele clarified that he no longer relied on this application as it was not linked to the appeal proposal, but it did beg the question of what assessment of harm he had carried out with regards to the gate piers. Whilst Dr Miele purported to carry this exercise out in evidence in chief, coming to a conclusion of no harm, this simply failed to add up to the remainder of his evidence – importantly both the fact that the gate piers are the principal entrance and the importance of views, both along the drive and glimpsed. When all factors are properly taken into account, the clearly preferable view is that expressed by Ms Horton, namely that the appeal proposal would cause a medium to high level of less than substantial harm to the significance and setting of the gate piers through the introduction of a competing entrance, and from the loss of its direct relationship to the North

¹⁰⁹ Joanna Horton XiC, CD/E6 appendix 2.0, pg. 30 para 3.63

¹¹⁰ Chris Miele PoE para 6.60

Park through changes to its character due to development and additional separation through the introduction of acoustic fencing.

Lower Farm

- 7.100 Lower Farm is located approximately 150m north-west of the boundary of the appeal site. It is comprised of a former row of cottages now utilised as a single house and dates back to the early 18th century. Whilst it is physically separated from the appeal site, it faces towards it and, in the view of Ms Horton, derives its significance from the agricultural and rural setting in which they are located on the outskirts of the settlement. Furthermore, as noted by Ms Horton, it benefits from open rural aspects looking over the NDHA.
- 7.101 In light of these aspects of significance, it follows that the appeal proposal would cause less than substantial harm due to increased traffic movements in its close proximity, from the new access road, light pollution and change of character from the development of the North Park (western development parcel) which would adversely impact on its setting and key views from its principal elevation.

Listed buildings in the vicinity of Perry Hill

- 7.102 The collection of buildings in the vicinity of Perry Hill contains what Dr Miele described as the beautiful Grade II* St Michael's Church with "very rich significance" as well as the Grade II listed Manor Farm.
- 7.103 Ms Horton, on behalf of the Council submits that Grade II Manor Farm and Cottage and Grade II* St Michael's Church in particular have been sited to benefit from views and prominence within the local topography and open countryside setting surrounding Edgcott village. The Council's position is that much of their significance in relation to their setting is derived from this context, the character of the open countryside and views across the appeal site.¹¹¹
- 7.104 Whilst the appellant had initially sought to dismiss the buildings on Perry Hill as being inward looking, Dr Miele did accept that there were aspects of the buildings on Perry Hill which faced towards the appeal site across a shallow dip in the landscape. Indeed, by the end of the Inquiry it was agreed between the parties that there would be visibility of the appeal proposal from these assets.
- 7.105 The appellant sought to rely on verified viewpoints prepared by Pegasus Group to demonstrate that there wouldn't be an impact on these assets resulting from the appeal proposal.¹¹² Viewpoint H5, from St Michael's Church, clearly indicates that the appeal proposal would be visible – and indeed Dr Miele noted that there would be a marginal intensification of the presence of the prison from this location. Dr Miele relied on Viewpoint H4 to indicate that there wouldn't be an impact on Manor Farm, however these

¹¹¹ CD/F3 paragraph 3.13.5

¹¹² CD/E6 Appendix 3.0 – in particular viewpoints H5 (pp. 12-19) and H4 (pp. 38-45)

photos were not taken from the access to Manor Farm but rather an entirely separate footpath. Given the issues with the evidence, the reality of the situation, as accepted by Dr Miele, is that the only real way a judgment can be formed on potential impact is by visiting the assets themselves, rather than relying on viewpoints from incorrect locations.

- 7.106 When properly assessed, the Council's case is that the appeal proposal would cause a medium to high level of less than substantial harm to the significance of this group of heritage assets (primarily but not exclusively to Old Manor Farm and Cottage and St Michael's Church). This is due to the proximity and increased scale and intensity of development proposed within all three development parcels, which would result in an intensification of massing and uncharacteristic building forms on a prominent and elevated landscape topography, which would irretrievably alter the countryside character to which these assets relate. The development, including house blocks, substantial ancillary buildings, high security fencing, floodlighting, car parking, new access road and sports pitches would be spread across a much wider area than the existing prison site and would command a more dominant visual presence within views from the heritage assets including in night-time views.

Grendon Underwood Conservation Area

- 7.107 Much was made of the fragmented, non-nuclear nature of the Grendon Underwood Conservation Area. However, on the evidence provided by the appellant, a conclusion cannot be reached that there would not be views of the appeal proposal from within this Conservation Area. Without such views being provided, the only way an assessment of impact can be made is from a visit to the area, as accepted by Dr Miele. For these reasons, on the evidence before the Inquiry the Council invites the Inspector to agree with the findings of Ms Horton that the appeal proposal would cause less than substantial harm to the significance of the Grendon Underwood Conservation Area. As explained by Ms Horton, due to the topography of the landscape and location of new development this harm is most likely to be felt as a result of light pollution.

Heritage assets within the wider landscape

- 7.108 There are a number of assets within the wider landscape around the appeal site.¹¹³ Given the topography of the appeal site, with Grendon Hall having been situated at the high-point to benefit, at least in part, from the extensive views afforded, the opposite follows – namely that there may be wide ranging views of the appeal site from the surrounding area.
- 7.109 From the evidence before the Inquiry, the conclusion that ought to be reached is that there would be less than substantial harm to the significance of these assets. Due to distance within the landscape this harm is most likely to be felt in night-time views and within designed long-distance views where

¹¹³ See the maps of heritage assets at CD/E6 Appendix 2.0 pp. 23-24

the development would appear as an out of place element within the wider landscape.

Sustainability

- 7.110 The appeal site is situated in a fundamentally unsustainable location. This is not simply because of its rural location. Rather, as explained by Mr Thistlethwaite in reference to Table 2 of the VALP136 the appeal site, the appeal site is in an area which has been specifically identified as being unsustainable.
- 7.111 Table 2 outlines the settlement hierarchy of the former VALP area and is used primarily to highlight the various settlements suitability to accommodate additional housing development. The logic behind the table is to focus housing growth within areas that are the most sustainable. The village of Edgcott is classed as "*other settlement*" which is the lowest level of the settlement hierarchy. Mr Thistlethwaite explained that whilst Table 2 *is* specifically aimed at guiding residential development, the principles of sustainability that the hierarchy rationalises can be reasonably applied to the appeal proposals.
- 7.112 This identification of the appeal site as a particularly unsustainable location accords with both a number of previous appeal decisions and with the reality on the ground.¹¹⁴ Of particular note are the conclusions of the Inspector in APP/J0405/W/20/3255772 that the surrounding roadside footpaths were unlikely to be used by the future residents due to their narrow width and unlit and isolated nature, that there would not be a genuine choice of transport modes and that occupiers would be heavily reliant upon private motor vehicles for a significant proportion of trips. These conclusions apply with equal force to the appeal proposal.¹¹⁵
- 7.113 Mr Smith accepted that the appeal site does not have good strategic access. There are currently no buses which would serve the appeal proposal during working hours, train stations are a substantial distance away and pedestrian and cycling options, which are along dark and unlit routes, are simply not feasible options for the vast majority of journeys and, in the Council's view, are unlikely to be taken up at all.
- 7.114 It is evident that the sustainable transport options for the site are poor, meaning that there would be a very high reliance on the private car which is contrary to Policy. In addition to visitors to the site and staff, there would also be many other frequent movements which would also be restricted by the availability of public transport. Such movements would include prisoners who are released on temporary licence who may be based at the prison but accessing rehabilitation work within the local community.
- 7.115 This is especially problematic given that one of the stated purposes of the appeal proposal is to facilitate visits from family members. Due to the

¹¹⁴ CD/F1, Appendices A-C: APP/J0405/W/17/3176173, APP/J0405/W/20/3255772 & APP/J0405/W/16/3185166

¹¹⁵ CD/F2, Appendix B, Paragraphs 16 & 23

inaccessible nature of the appeal site the possibility of a trip from London was described as “*not impossible*” and “*not insurmountable*”, a position which hardly inspires confidence in the chosen location for the appeal proposal as providing an appropriate location for this type of development.

- 7.116 The primary disagreement between the parties at the transport roundtable was the acceptability of the bus improvements offered by the appellant. The Council’s position is that the nature of the improvements offered would not make the appeal site sustainable. As such, they would not make the development acceptable in planning terms. Applying a pragmatic approach, it is difficult to see how funding an extra bus service 10 hours a day, 6 days a week for 5 years or the provision of a new service to Bicester Village railway station could make the appeal site sustainable. It would be a limited service, only offered for 5 years and from a single location. Indeed, it is apparent from the socio-economic evidence that it cannot be assumed that staff would come from any one location, and certainly not from within Buckinghamshire, rendering the proposed bus service effectively pointless in addressing the unsustainable nature of the appeal site.
- 7.117 It is no answer for the appellant to suggest that any site on which a prison can be built would be unsustainable – indeed, if that were the case the site selection criteria would not make express reference to sites having “good strategic access.” Moreover, if this were true then it would be extremely hard, if not impossible, to build Category C prisons in locations that accord with the Farmer Report and purposes of Category C prisons. Nor has the appellant adduced any evidence that can be analysed about the adequacy or otherwise of the site search. With respect, the Council submits the reason for this is clear – the search has been focussed on, if not limited to, MoJ owned sites in order to quickly build out permissions to meet the promises made in the Conservative Manifesto and subsequent White Paper.
- 7.118 It is on the basis of the above that the appeal site is contrary to Policies S1 and T1 of the VALP and Paragraphs 7, 8 and 105 of the NPPF.

Socio-Economic Benefits

- 7.119 The supposed socio-economic benefits of the appeal proposal were set out by Mr Cook. These benefits are not site specific but would in fact occur at any prison.
- 7.120 The starting point for the appellant’s assessment of socio-economic benefits is the report “Economic Impact of a New Prison”.¹¹⁶ The data in this report is over 10 years old and, whilst it states that four prisons were assessed, it discounts the one rural prison from its assumptions on prison populations and job creation.¹¹⁷ Perhaps most importantly, however, is the emphasis within this report of the fact that the “*evidence shows that economic impacts vary significantly from prison to prison.*”¹¹⁸ Mr Cook agreed with this, and further went on to state that he could not disagree with the fact that each area had

¹¹⁶ CD/J1

¹¹⁷ CD/J1 pg. 1 section 4.2

¹¹⁸ CD/J1 pg. 6

its own opportunities, strengths, limitations and weaknesses which may impact what socio-economic benefits can be derived from any given proposal.

7.121 Furthermore, the modelling failed to take into account material local socio-economic factors which were acknowledged by the appellant. Each of the purported socio-economic benefits relied on by the appellant therefore failed to take into account local considerations which suggested that for this specific site these site-specific benefits would not occur, or would be lessened, due to the interaction between three key factors.

7.122 These three key factors are:

- a) Recruitment issues nationally, locally and in the prison sector;
- b) The fact that there are 10 prisons within 40 miles (the evidence shows within 30 miles) of the appeal site which, he accepted, was "*an issue*" for the appeal site which the appellant "*had to accept*" – the 550 operational jobs stated to arise from the appeal proposal had no regard to this; and,
- c) Aylesbury's low unemployment rates. Perhaps even more peculiarly, this was acknowledged but not factored into the equation.

7.123 Each of these three agreed local issues is clearly material to the appeal proposal and the supposed benefits of the scheme. Whilst there may be national recruitment issues across the prison sector, the unchallenged evidence of Dan Hayes was that the prisons that are already in the area are struggling not only to recruit but also retain staff.¹¹⁹ What seems likely is that either the appeal proposal would be unable to recruit locally, or that staff would be attracted from other prisons which would be an overall net neutral for the area and cause harm to the other prisons. Indeed, Mr Cook noted that another aspect he had not considered was recruitment from outside of Buckinghamshire, and agreed it seemed likely that *if* people were working in the prison it was reasonable that they would be attracted from Bicester, which is located within Oxfordshire.

7.124 The appellant sought to emphasise the fact that Mr Cook's assessment of likely job radius was based on figures obtained from HMP Aylesbury and HMP Bullingdon as somehow answering these fundamental issues with the modelling.¹²⁰ This point is untenable. The question of what distance employees might commute presupposes that there are employees to commute in the first place. That presupposition is the model, based on the Peter Brett Report, which reaches the conclusion that there would be 550 operational staff at the appeal proposal with no regard to the recruiting crisis nationally and locally, staff retention issues locally and the low unemployment rate in the area. Simply put, it is no answer to say that staff at HMP Aylesbury and HMP Bullingdon commute from a relatively small area without first considering

¹¹⁹ INQ5

¹²⁰ CD/E4 paras 3.11-3.14

local factors which would, had they been determined, demonstrate that there would be very real issues trying to sufficiently staff the appeal proposal.

- 7.125 It was for this reason that Mr Cook sought to rely on the two initiatives referenced above, namely 'Advance Into Justice' and 'National First Posting Relocation Campaign', which he said would help solve the recruiting issue in the area. However, not only does the application of these initiatives to the local area simply serve to highlight the recruiting crisis which Mr Cook had failed to take into account, but it was also revealed that these initiatives would not apply to the appeal proposal as it would be privately managed.¹²¹ Therefore, the position is that a prison would be built in an area which already cannot find sufficient employees for the prison sector, and the appellant's response to addressing this is to simply pass the buck to whichever private contractor ends up managing the appeal proposal.
- 7.126 Indeed, this is likely why Mr Cook put forward the socio-economic case as being justified on the basis of supporting growth given that the local market does not have the supply of people to work at the appeal site beyond those already working in the 10 prisons around it. Of course, reliance on growth as a benefit is a statement that could truly apply to any economic development because it may result in an additional job being created. However, it is one that is fundamentally divorced from the realities on the ground of an area which is already inundated with prisons struggling to both recruit and retain staff.
- 7.127 As noted by local residents on the opening day of the Inquiry, as well as Greg Smith MP, the area already has a high number of infrastructure projects being constructed in HS2 and East-West rail, and in the view of local residents it was simply not feasible to suggest that the appeal proposal would be able to find construction workers as set out in Mr Cook's proof.
- 7.128 Finally, it must be noted that there is nothing in the HMP Garth and Wymott decision that requires or even indicates that significant weight should be afforded to the economic benefits of the appeal proposal. Not only would that improperly suggest that the Inspector for this appeal is bound by that previous decision but also in this Inquiry, unlike in the Garth Inquiry, the Council has made a serious challenge to the appellant's purported socio-economic benefits. For reference, in the recommendation letter for Garth and Wymott, the Inspector stated that:
- "The appellant's data and evidence underpinning these figures was not seriously challenged at the Inquiry, even though the report by Peter Brett Associates focussed more on urban prison locations than rural ones like the appeal site"* ¹²²
- 7.129 For the reasons outlined above and detailed in full during the Inquiry, the appellant's socio-economic case has been subject to serious challenge in particular due to the vital local variables that simply have not been taken into account in suggesting that the appeal proposal would result in a series of

¹²¹ Richard Cook XX

¹²² INQ7 para 13.69 pg. 74

socio-economic benefits that are divorced from the reality of the local area. Furthermore, given the Government's objective to deliver four new prisons, of which the appeal site may or may not be one, the economic benefits would occur in any event. No indication has been given by the appellant that the target of four new prisons would be dropped if the appeal scheme was not allowed. As such, only very minor positive weight should be attached to the economic benefits that the appellant states would be achieved.

Sports pitches

7.130 HMP Springhill currently benefits from a large playing field site situated in the northern parcel of the site which also contains outdoor gym equipment and a running track. It equates to approximately 3ha in size however the appellant has assessed the total usable size as being 2.3ha.¹²³ It should be noted that Owen Neal disagreed with the sub-division of the playing field into parcels in INQ13 as unhelpful, on the basis that it diminished one of the qualitative benefits of large playing fields – namely multi-sport and layout flexibility – which is not offered by smaller playing fields.

7.131 The appeal proposal seeks to replace the existing large playing field with a playing pitch measuring 106m x 70m, which the appellant notes meets current Sport England guidance for seniors and includes the required run-off area. As such, Ms Hulse argued that the overall playing area is comparable to the existing large pitch at HMP Springhill, indeed the replacement is marginally larger (0.74ha compared to 0.65ha).¹²⁴ Initially, the appellant accepted that the quantitative loss would be in conflict with Sports England Exception E4 but argued that this is outweighed by the planning benefits of the scheme.¹²⁵ This approach relied on an explicit acceptance that the appeal proposal is not policy compliant in relation to sports provision, something which must weigh negatively in the planning balance.

7.132 In the sports rebuttal, the appellant sought to suggest that the pitch would be *qualitatively* better having regard to the physical condition of the previous pitch and appropriate drainage being introduced for the new pitch.¹²⁶ There are two problems with this, as set out in Owen Neal's Proof of Evidence and discussed during the sports roundtable.

7.133 First, whilst Ms Hulse repeatedly made reference to the poor quality of the existing playing field, this was an assertion based on a visual inspection rather than a statement of fact. As explained by Mr Neal, conclusions on the quality of existing sports pitches should be based on an expert assessment of the ground conditions by an agronomist / sports turf contractor, with Sport England having provided a briefing note on quality assessments of natural turf playing fields.¹²⁷ Where, as is the case here, that has not been done, there simply is not the requisite information present for a decision-maker to

¹²³ INQ13

¹²⁴ CD/E1 para 7.39

¹²⁵ CD/E1 para 7.50

¹²⁶ CD/E10 para 2.2

¹²⁷ CD/H17

conclude as to whether a replacement sports pitch would be of better, equal or worse quality.

- 7.134 Second, as set out in Mr Neal’s proof, quality is not necessarily limited to an assessment of the ground conditions. In the view of Sport England, the expert statutory consultee on these matters, quality is also about the flexibility to use the playing field for a range of pitch sports; pitch types and sizes as well as relocating and reconfiguring the layout to reduce wear and tear and facilitate multi-sport and pitch use. Under the proposal this flexibility would be lost as only the adult football pitch would be re-provided. Importantly, the question is not limited to whether the pitch is used flexibly but rather is whether it can be – and the loss of playing field size objectively loses the flexibility that is afforded by the current playing field.
- 7.135 For completeness, the Council emphasises that while improvements to the design of the proposed three proposed MUGAs are welcomed (to better meet Sport England design guidance), this cannot be considered part of the mitigation for the loss of playing field area. The MUGAs are planned to meet the physical activity; sport and recreation needs of the proposed new prison population. They cannot be considered compensatory or partially compensatory for the loss of playing field land on the existing prison site.¹²⁸ As such, it cannot be concluded that the appeal proposal would provide a sports pitch of equivalent or better quality given the lack of expert assessment along with the loss of flexibility.
- 7.136 During the Inquiry, the appellant made reference to the judgment of Lang J in *R (Brommell) v Reading BC* [2018] EWHC 3529 (Admin). The ratio of this decision is that the correct interpretation of paragraph 99(b) of the NPPF is that the relevant test for any proposal is whether it provides for “equivalent or better” provision. Whether the offer is “*equivalent or better*” is a matter of planning judgement taking into account the quantitative changes and/or any qualitative changes. There is no requirement for a proposal to be both quantitatively and qualitatively better to fall within paragraph 99(b) of the NPPF.
- 7.137 That case does not change the Council’s position, as discussed in the roundtable, that the appeal proposal fails to provide adequate sports facilities. It would result in a quantitative loss of sports pitches and the appellant is solely relying on the supposed qualitative improvement. However, this is wrong for the reasons identified above. As such, it cannot be said that the appeal proposal offers a qualitative improvement of the sports pitch. Taken together with the quantitative loss, the result is that the appeal proposal is contrary to NPPF paragraph 99(b), as interpreted in accordance with *Brommell*.

Planning Balance

- 7.138 The striking feature of Ms Hulse’s planning balance in her proof of evidence was the sheer number of negative impacts which failed to appear. In cross-

¹²⁸ CD/F5 para 5.9

examination, Ms Hulse accepted that: (i) negative weight should have been given to all of the conflict with Policy S1(d); (ii) there was a general failure to reference the unsustainable nature of the appeal site; (iii) conflict with Policy NE4 should have been identified; and, (iv) negative weight should have been given to the fact the appeal site is greenfield. It is also striking that Ms Hulse attributed minor negative weight to the loss of the NDHA park despite her own witness Dr Miele assessing the harm as moderately high. Fairly, however, Ms Hulse did raise her assessment of landscape harm to moderate in light of the evidence heard and changed her assessment on the gate piers.

7.139 However, as will be clear from the above, many of the benefits that Ms Hulse identified fell away during the Inquiry. Going through the considerations in turn:

a) The development plan – The appeal proposal is in clear conflict with the statutory development plan. Pursuant to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the decision in accordance with the statutory development plan is to refuse a grant of permission, and material considerations further weigh against the proposal. This includes the unsustainable location of the appeal site, heritage harm, landscape harm to the character of the area and visual harm. There is no sensible basis for asserting that the scheme is in compliance with the development plan as a whole or at all in light of the evidence at the Inquiry and, indeed, Ms Hulse's own concessions at the Inquiry regarding breach of critical and important policies.

b) Need – There is no national need and the case for regional need is unverified, cannot be interrogated and, in any event, is substantially less than the amount of places for which permission is sought. This attracts only limited positive weight.

c) Economic – The appellant relies on generic benefits which, upon analysis, appear less likely to apply to the appeal proposal than to other locations. The decision to afford this significant weight in Garth does not apply here, given the lack of challenge that was made to the economic benefits in that case;

d) Social – minor positive weight can be afforded to these.

e) Environmental - As with the economic benefits, many of the environmental benefits (BREEAM, energy efficiency aspirations, 10% net ecological net gain) will apply to any prison project regardless of where it is constructed which reduces the value of these benefits. No weight attracts to these. Indeed, negative weight applies in respect of the greenfield and unsustainable nature of the site.

f) Landscape – There would be a major adverse impact on the landscape in the short-term and major adverse or moderate adverse effects on visual receptors. This should be afforded substantial weight against the appeal proposals in relation to its landscape effects;

g) Heritage - Given the scale of heritage impacts across multiple designated and non-designated heritage assets and considering the guidance outlined in paragraph 199 of the NPPF, great weight attaches

against the appeal proposals. Furthermore, in relation to the specific policy test outlined in Paragraph 202, the less than substantial harm created is not outweighed by the limited public benefits created by the appeal proposals;

h) Sports – the position of Sports England is that the re-provision fails to meet Exception E4.

Conclusion

- 7.140 For all of the reasons set out above and during the course of the Inquiry, the appeal proposal is in serious conflict with the development plan, in respect of Policies S1, S3, T1, BE1, BE2, NE4, NE5. There is a presumption against the scheme due to the agreed harm to heritage assets. There are insufficient public benefits to outweigh that presumption. Material considerations further indicate the scheme should be refused. The Inspector is invited to recommend to the Secretary of State that the appeal be dismissed and permission refused.

8.0 The Case for Other Parties attending the Inquiry

Rt Honourable Greg Smith MP

- 8.1 Mr. Smith is concerned about the cumulative impact of national infrastructure projects on a small area. The area already has the East West rail link, HS2 and the Energy From Waste Project. Taken together, these projects give rise to significant visual intrusion, traffic and, damage to local roads as well as having impacts on ecology and water.
- 8.2 The proposal is contrary to policy S2 of the VALP. Strategic growth is required to be in sustainable locations. The MoJ know the project is unsustainable and the original project required more land to be acquired.
- 8.3 The local parish councils have provided 3D images and it is notable that every local parish council and Buckinghamshire Councillors opposed the proposed development for a wide range of reasons. This is the only planning application that Mr Smith has opposed since he was elected as an MP and he was breaking a 3 line whip to attend the Inquiry.
- 8.4 The topography of the site does not work. The proposed development is not suited to a rural location. This is evident in that 30 hectares of land is required rather than the 12 stated in the site search criteria. This is due to the scale of the proposal. The effects of the proposal would be felt by those using the PRow and in the surrounding villages.
- 8.5 The economic benefits do not stack up. The existing prisons in the wider area are already struggling to recruit staff and Buckinghamshire benefits from full employment. The 40 mile distance over which benefits are alleged to be felt include locations as far away as the Hanger Lane Gyratory System.
- 8.6 There is a heavy reliance on the non-existent public transport system. The appellant's Transport Assessment acknowledges that there are limited opportunities for the use of public transport by visitors and for deliveries.

Access to the site is also difficult. The lack of sustainability in terms of the location of the site is evidenced by three dismissed housing appeals. The site is not brownfield land.

- 8.7 We need to uphold the democratic views of local communities. The report recommended refusal of the proposed development and it was supported unanimously. In short, the proposal is not sustainable development and the appeal should be dismissed.

Mr Copsey¹²⁹

- 8.8 Mr Copsey occupies the property that backs onto the prison site. He has a number of concerns regarding the proposed development.
- 8.9 There is limited access to the proposed prison or the existing prisons by public transport and therefore there would be a reliance on the use of a private car. Prison officers would not live locally. They would need to come from other areas and would use private motor vehicles. It would take 10 to 15 minutes to walk from the bus stop to the prison and the cost of a taxi from Bicester would be too expensive.
- 8.10 Mr Copsey is concerned about the safety implications of the proposed development within an area already used by HS2 and the East West Rail project. The proposed development would use the same roads as the construction routes as these projects. Existing traffic causes delays at the A41 junction and there has been damage to the road surface.
- 8.11 The proposed development would also give rise to problems for the local community. There are few facilities nearby and the only shop is three miles away.
- 8.12 Mr Copsey's property includes a lake with a wide range of wildlife. Surface water from the prison is polluted and flows into two streams. Previous pollution has given rise to paint in the lake which is sometimes a strange colour. The proposed development could impact on the quality of these streams and the flood plain.
- 8.13 Lawn Hill is used as a race track due to the congestion on Grendon Road. The proposed development would exacerbate this issue. The whole project is a waste of public money.

Councillor McPherson (Buckinghamshire Ward Councillor)

- 8.14 The local community is small, but it is not a community that is unused to taking a hit for the greater good. However, the community in this instance were pleased that planning permission had been refused.
- 8.15 The proposed mitigation would offer very limited and hypothetical benefits. The weight afforded to these benefits should be appropriate. It's questionable

¹²⁹ Mr Copsey participated via the Teams Platform

whether the forecasts for this site are robust. The prisoner benefits need to be in the right location. Most of the search criteria for the MoJ have been overridden and the benefits of the proposed development have been reverse engineered. Prison policy is that the site should be in the right location. The Brett Report considered relatively urban prisons with good transport links that were evenly distributed around the county roads, rather than rural prisons in unsustainable locations as proposed.¹³⁰

- 8.16 There is no local need for a category C prison in this area. There are only 371 prisoners with a Buckinghamshire postcode. Within the existing prisons at HMP Grendon and HMP Springhill there were only seven inmates with Buckinghamshire postcodes. Aylesbury prison has recently been redesigned and would now be able to accommodate about 5,294 prisoners.

- 8.17 There are also difficulties in recruitment in the surrounding area. The proposed prison would require 555 full time equivalent employees within an area already characterised by high employment. Therefore, the reality is that staff would come from further afield. The economic benefits should be compared with other prisons. The Peter Brett Report projections are too unreliable to be afforded significant weight. The proposed development is not comparable with those in the Peter Brett Report and did not take account of the existing projects within the area, including HS2. It is therefore difficult to understand where the benefits of the proposed development would be felt. It would also give rise to additional costs and pressure on the emergency services, including mental health services and the ambulance service. There needs to be a proper and diligent search for sites and in this case the benefits do not outweigh the harm.

Councillor Fealy (Buckinghamshire West Ward)

- 8.18 We fail to see why this is the only site. The search criteria suggest 12 hectares but the MoJ has had to buy additional land because the site is not flat. The nearest station is six miles away and the bus service is infrequent. The A41 is two miles away and down a narrow road. Construction pressure on local roads will be significant.

- 8.19 The proposed development would be highly visible during the day and the night-time. It is a Greenfield site with a sloping access.

- 8.20 There are recruitment difficulties within the area and 10 prisons within a 40 mile radius. The site occupies a rural location, and the proposed development would give rise to irreversible harm. Two PRoWs would be diverted in the immediate vicinity of the proposed development. Large scale infrastructure proposals such as this should be distributed around the country.

- 8.21 The shortage of prison places in the south east is not credible. There are 11 prisons within a 40 mile radius these include HMP Five Ways, HMP Glen Parva (now known as HMP Fosse), HMP Bullingdon (which has recently been

¹³⁰ CD/C6 paragraph 5.9

extended), and HMP Aylesbury a former young offenders institute that has recently been re-classified to provide 420 places. The MoJ said it used property agents to search for sites, but this site does not meet the MoJ's self-imposed criteria. There are two more prisons near Braintree, including a category C prison on Ministry of Defence land.

Councillor Jackman (Grendon Underwood Parish Council)

- 8.22 There is a precedent of appeals being dismissed within the locality for reasons of sustainability. These include one for 60 dwellings, one for 72 dwellings and one for 65 affordable dwellings.¹³¹ The area has limited non-car mode transport. 12.6% of roads in Aylesbury are unlit and rural.
- 8.23 The draft section 106 Agreement proposes to fund the bus service for a period of five years, confirming the lack of accessibility within the area. Moreover, the proposed development would have a life well beyond the five years for which the bus service would be funded. The proposed mitigation works to the existing highway network indicate the level of dependence on private vehicles within the area.

Councillor Harper (Chair of Edgcott Parish Council)

- 8.24 Access to HMPs Grendon and Springhill is via a Class C rural road running from the A41 at Grendon Underwood through Edgcott and on to Buckingham. The most recent traffic survey carried out by Transport for Buckinghamshire (TfB) in May 2021 was at a location only 100 metres from the proposed new prison entrance. The volume of traffic on weekdays was from 3,709 vehicles per day to 3,973 vehicles per day. Over the two weekends the numbers ranged from 2,072 vehicles per day to 2,686 vehicles per day. These numbers include all vehicles from motorcycles up to the largest HGVs. The number of trucks included in these figures ranged from 203 trucks per day to 274 trucks per day on weekdays.
- 8.25 The appellant's Transport Assessment states that during the AM Peak, approximately two cars every minute would enter the village of Edgcott and during the PM Peak, approximately five cars every minute would enter the village of Edgcott. It should be pointed out that the TfB Traffic Survey shows a 7.00 am to 8.00 am peak in Edgcott of 465 vehicles and a 17.00 pm to 18.00 pm peak of 347 vehicles. This equates to 7.75 and 5.78 vehicles per minute respectively. Since May 2021 the traffic numbers through Edgcott have continued to increase as things get back to normal after Covid. It is also known that traffic volume in 2025 and beyond would be increased further by the staff employed at the new HS2 Maintenance Depot between Calvert and Steeple Claydon.
- 8.26 It is accepted that the location of the site is such that it has only limited access by non-car modes of transport. A prison of the size proposed would generate heavy traffic originating from outside the local area, from Aylesbury, Bicester, Buckingham and other towns. This traffic would consist of staff

¹³¹ APP/J0405/W/17/3176173, APP/J0405/W/20/3255772 & APP/J0405/W/16/3185166

commuting from home, families visiting inmates, and general supplies of food etc. Most of this traffic would originate from well outside the local rural area which would be unable to supply the demand for new prison staff due to the local housing shortage and the low unemployment in this area. These two factors would add to the difficulty of prison staff recruitment locally, particularly with so many better paid and more attractive job opportunities available in this area. The C road is a winding fairly narrow route entirely unsuited to the numbers of vehicles coming to the existing prisons.

- 8.27 The number of traffic accidents close to the prison location is already a great concern as shown from the following data. Data from Thames Valley Police runs from 1 June 2018 to 31 December 2021. These are only accidents where the police are called out and report them and does not of course include the many incidents where there were no serious injuries.
- 8.28 Of the 14 local reported accidents 3 were fatalities at Charndon (January 2021), Woodham (June 2021) and A41 Dual carriageway (August 2021). These are all within three miles of the prison and on main routes to the prison. Expanded further towards Aylesbury and Bicester the numbers are much greater but there are more than enough local accidents to raise our concerns. The traffic accident data provided by the appellant appears to be selective. It appears that the internal site layout has been designed to accommodate a 16.5m articulated mobile health scanner. Enquiries with other UK prisons indicate that mobile health scanners are not used and should any inmate require this facility then they would be transported to the nearest appropriate hospital.
- 8.29 Whilst the Highway Authority is satisfied that the layout provides acceptable access, manoeuvring, and turning for a 16.5m articulated vehicle, it also adds that they are "satisfied that a suitable access arrangement including the requisite *visibility splays and constructed to highway standards can be secured by planning condition, and via detailed design as part of a highway legal agreement*".
- 8.30 The Passenger Transport Team has advised that the Edgcott bound bus stop should be relocated opposite the Aylesbury bound bus stop and new hardstanding should be provided in addition to dropped kerbs and a footway to enable pedestrians to cross Grendon Road. The footway may need to be extended northbound to the existing gateway feature. It is difficult to envisage how a new footway opposite the Aylesbury bound bus stop would enable pedestrians to cross Grendon Road. The idea of extending the footway to the existing gateway feature is an attempt to compensate for the existing footway being unuseable if a new road access is installed. Bearing in mind that the appellant's trip generation and traffic modelling data conflicts with that provided by TfB, site access safety cannot be treated with any confidence.
- 8.31 Off-site highways mitigation throws up the same concerns with conflicting current traffic volume data and what appear to be suspect conclusions regarding the source of local traffic. The appellant has considered traffic modelling at the A41/Broadway junction and the Main Street/Broadway junction but virtually ignores the probability that an equal amount of traffic

may travel through Edgcott. Why would so much less traffic come from Milton Keynes, Buckingham, Winslow and the villages than from the A41? The Kingswood junction through to Grendon Underwood village and the prison has also been ignored.

- 8.32 The Broadway junction with the A41 is now recognised by local and regular users as the most dangerous junction on this stretch of the A41. The Highway Authority claim that " vehicle speeds along the A41 are likely to be too high for a signalised junction". The appellant quotes average speeds of around 55 to 60 mph at this point and it follows that improvements to this junction by way of additional signage, hedge cutting and the removal of a tree are worryingly inadequate token gestures. The Main Street/Broadway junction has only been considered by the appellant through vehicle modelling. No mention is made of St Leonards Church on this junction and the dangers to pedestrians using the church. With regard to highways mitigation, the suggestion for more chicanes along Edgcott Road does not seem to recognise this is a HGV construction route for both HS2 & East West Rail(EWR). The impact on local roads would be severe.
- 8.33 The C Road to the site is narrow, twisty, plagued with large vehicles due to HS2 and EWR developments. Up to 4,000 vehicles a day pass through Edgcott and hence past the current prison site entrance. Up to 1,000 contractors a day on site for two-three years plus all the construction HGVs and then in operation hundreds of additional vehicles per day, 365 days of the year cannot be claimed to be acceptable. There is great concern that a potential accident black spot would be created by the generation of even more traffic on our local roads.
- 8.34 Sustainable transport measures do not exist for this remote and rural location. No staff employed at the local prisons walk or cycle to work, nor do they car share unless they live together and share the same shift pattern. No one in their right mind would cycle to work along the current roads with the exiting volume and type of traffic so why should they do it if the traffic numbers significantly increase? The unsustainable nature of this location has been independently acknowledged by two independent appeal Inspectors who dismissed residential schemes on land at Edgcott Road and South of Park Road/Springhill Road respectively.¹³²
- 8.35 The Highway Authority objects and recommends that this planning application is refused. The proposal would not constitute sustainable development that fulfils a social, economic and environmental role, and the proposal would be contrary to the requirements of policies T1 and T5 of the VALP and paragraphs 57 and 58 of the NPPF. The proposal would do irretrievable damage to the rural area – increasing traffic, spoiling views, harming the landscape, disrupting wildlife, damaging heritage and causing harm to the wellbeing of local people. I respectfully request that this appeal is dismissed on the same grounds that the Buckinghamshire Planning Authority

¹³² Appeal ref 3255772 & 3185166

unanimously refused the initial planning application by reference to the local and national planning policies that this proposal contravenes.

Mr Hayes

- 8.36 I have worked within Criminal Justice for over 28 years. During that time, I have worked in the Prison Service and the National Offender Management Service and as a consultant to design new prisons. I know the prisons in Buckinghamshire well and I am familiar with the majority of prisons in the midlands, the south east and London.
- 8.37 It is important that this Public Inquiry understands how the MoJ has behaved during the 25 month period between December 2020 and January 2023. The Public Consultation took place over the 20/21 Christmas and New Year holiday period! From the onset it was immediately clear that the MoJ's proposal was speculative and a cut and paste from similar applications across the country.
- 8.38 There has been very little evidence of any detailed feasibility work or that other sites were considered. Quite why MoJ was not able to have a useful dialogue with the Ministry of Defence (MoD) about MoD brownfield land next to Bullingdon has not been explained. It was stated by the MoJ that Land in MoJ ownership was considered a priority given the potential for quicker delivery to meet a challenging delivery programme and avoid additional costs and time delays associated with the purchase of land. So, the choice of this unsustainable and unsuitable location has been perversely driven by partial ownership of the land.
- 8.39 Throughout the planning process the MoJ ignored its own criteria for site selection. These include that a site should be sufficiently flat, whereas the site is a hill with a ridge line. A site should also be a suitable shape for a prison. Why on earth would you want to build a prison of this size at enormous cost on a footprint which is horseshoe shaped and on a slope?
- 8.40 280 plus documents have been lodged during the Public Inquiry, the majority were posted on the portal since 16 January. As a local resident this process and timeline feels like it is heavily weighted in favour of the MoJ and its teams of well-paid consultants. It is impossible for us to review and comment on all of these documents in the timeframe available.
- 8.41 As an example of the MoJ submitting documents which have potential to be misleading, I want to draw the Inquiry's attention to Ms Hulse's evidence. This states that "*the lack of alternative sites should be considered to be material to the determination of the appeal*".¹³³ Given that there is very little evidence that alternative sites were explored by the MoJ this is quite an extraordinary statement to make in support of the application.
- 8.42 She also states that the clear and compelling need for a new Category C Resettlement prison in this location justifies the approval of the appeal

¹³³ CD/E1 Section 6 page 44

scheme, notwithstanding its countryside location. The London and South East Region covers Berkshire, Buckinghamshire, Oxfordshire, Bedfordshire, Hampshire, Surrey, East and West Sussex and Kent and all of the London boroughs. On that basis it would be possible to justify 'any site on any hill in the countryside' as being suitable for a prison build anywhere in the south east region and London.

- 8.43 Mr Cook states in the report that "of the 519 staff employed directly in the prison between 221 and 296 staff would come from the former Aylesbury Vale Local Authority Area". These projections are at best naïve and show a complete lack of understanding of the local labour market and of the long-standing recruitment and retention issues within the criminal justice sector in this area. From my experience people who choose to work with prisoners do so not because it is a job, but because it is a vocation. Working in a prison is a bit like marmite, you love it, or you hate it.
- 8.44 Prisoners are vulnerable by default of being in prison and need care and support. They can also be unpredictable and violent. Many have enduring physical, mental health and social care problems. Staff who work in a prison need to be confident, resilient and assertive. They need to be compassionate and empathic, good at communicating and able to manage challenging behaviour. People with these skills who are prepared to work in prisons are hard to come by and even harder to retain in the service.
- 8.45 I am very concerned that planning decisions are going to be made based on so called experts who have been paid to find solutions to get things done, no matter the challenge, but who actually do not understand the realities of working in a prison.
- 8.46 I have no doubt that a new mega prison in Buckinghamshire would drain the existing prisons in the area of experienced staff and further deplete the labour market. Charles Taylor, Chief Inspector of Prisons for England and Wales in his 2021-22 Annual Report said:
- "Perhaps the biggest challenge facing the Prison Service is recruiting enough staff and stemming the flow of resignations that have, in some jails, become a flood".
- "As the economy began to open up after the lockdowns of 2020 and 2021, employment opportunities and wages grew, and prisons in more economically buoyant parts of the country found the pipeline of new officers drying up and increasing numbers leaving the service".
- 8.47 Previous to that, in 2019 The Prison Governors Association expressed concerns about the location of new prisons which it believed was based on availability of sites rather than geographical need.
- 8.48 At HMP Bullingdon (seven miles from the site), which is due to add a further 240 prisoner places, the Independent Monitoring Board (IMB) annual report published last month states that between 1 July 2021 and 30 June 2022, 76 prison officers left the prison; 63 of these officers resigned from the Service. The report states that this is the seventh year in which the IMB has reported concerns about safety in the prison and to quote from the report "*It is*

possible that the chronic staff shortages will begin to have a greater impact on the safety and stability of the prison”.

8.49 On 30 June 2022 Bullingdon had 274 officers which was a reduction of 47 officers from the previous year. The proportion of staff with limited experience has increased compared with the previous year. The IMB’s view was that safety, in particular violence and self-harm has been strongly influenced by the deficits in staff numbers and experience.

8.50 At HMP Woodhill (18 miles from the site) The IMB report published in September 2022 stated:

“Staffing levels and staffing confidence are a significant concern because of their impact on the delivery of the regime”

“Woodhill will continue to lose staff faster than can be recruited for the foreseeable future, with the attrition rate running at nine per month, expected to rise to 11 per month over the next two months”.

8.51 His Majesties Inspectorate of Prisons Inspection report for Woodhill published June 2022 stated:

“External forces and the relative affluence of the local area were having a serious impact on leaders’ ability to recruit and retain staff. Indeed, the staffing position was no better than it had been at the time of the previous inspection, with as many staff leaving the prison as joining. The scale of the task is huge”

“The prison is relying on detached duty staff redeployed from other prisons to maintain an often severely reduced regime which impacts on every aspect of a prisoner’s life, including safety – fewer cell searches; fair and humane treatment – time out of cell; health and wellbeing – cancelled appointments; progression – access to work and education”

8.52 HMP Aylesbury (13 miles from the site) was recently re-categorised from a Youth Offenders Institute to a Category C adult male prison. It has similar recruitment and retention issues.

8.53 Buckinghamshire’s 2022 Labour market skills analysis states:

“Recruitment difficulties cause problems for employers in many sectors. This is linked to a reduction in the size of the economically active population, and a rise in the number of economically inactive working-age residents” and a “Growing mismatch between the demand for skills and labour within the local economy, and the skills and jobs sought by local residents”

“Wages for Bucks residents are higher than the national average, with Buckinghamshire employment rate consistently higher than the national average over the last 16 years and with unemployment lower than the national average for the same period”.

- 8.54 If the Secretary of State is to overrule the unanimous decision of Buckinghamshire County Councils Strategic sites Committee in full disregard of all the evidence presented including the longstanding staffing difficulties in local prisons and the knock on effect for prisoner safety, this would in my view, not just be a misuse of public money, it would be a 'slap in the face' for Prison Governors and their staff in our local prisons, who on a daily basis work in challenging circumstances to keep prisoners safe and support them to prepare for release.

Linda Holt

- 8.55 Ms Holt lives adjacent to HMP Springhill and finds that the immediate area is used for drop-offs such as clothes, food and drugs. Lawn House Lane is used for parking. Police and prison officers frequently trespass on her land. The planning application does not address issues of trespass and security.

Mr Spence

- 8.56 Mr Spence provided landscape evidence on behalf of Grendon Underwood Parish Council. He submitted a proof of evidence, technical methodology and landscape visualisations to the Inquiry.¹³⁴
- 8.57 Technical Guidance Note 06/19 (TGN 06/19) contains specific requirements in terms of printed image size for all development proposals, for both single frame (50mm) images and 90 degree panoramas. The reason for this was to improve understanding of the impacts of a development by presenting the photography at a printed size that reflects the view gained from the viewpoint.
- 8.58 The TGN 06/19 introduced a proportionate approach to visualisation types, ranging from Types 1 to 4, where Type 1 is the least onerous and Type 4 is the most accurate. For all landscape practitioners it is important to recognise that major development to accompany LVIA's such as this should be Type 4. The appellant chose Type 3, which is inaccurate and unable to be checked by others.
- 8.59 Paragraph 1.2.9 of TGN 06/19 states visualisations should provide the viewer with a fair representation of what would be seen if the proposed development is implemented. They should portray the proposal in scale with its surroundings. In the context of landscape/townscape, it is crucial that visualisations are objective and sufficiently accurate for the task in hand.
- 8.60 Despite reference to the TGN 06/19, the Pegasus photographs do not appear to have been taken on a levelled tripod which means the 3D model views are not aligned accurately to the photographs. The single frame images presented on an A3 sheet are considered reasonable, but the lack of a levelled tripod results in inaccuracies in terms of their accompanying visualisations. The closer wireline views fail to capture the whole site which is a major shortcoming of the Pegasus approach. The context views are too

¹³⁴ CD/D23

small and the single frame images in some cases fail to capture the full extent of the site to be able to make any judgement of impact.

- 8.61 Pegasus have additionally failed to follow the detailed requirements contained in TGN 06/19, specifically the requirement for a Technical Methodology. There are also concerns about the presentation techniques used, particularly as the images specify that Type 3 visualisations have been produced. This visualisation type is known to contain inaccuracies. For comparison we have assisted the Public Inquiry by presenting our own Type 4 visualisations.¹³⁵
- 8.62 For any major development it is essential that the full extent of a development is presented in the photography and visualisations. It is unclear which viewpoints actually capture the full extent of the development, but the following visualisations fail to capture the full site: Viewpoints 1, 2, 5, 6, 13 & 15. Viewpoint 8 wireline shows no clear difference to the existing view, and may in fact be the same image.
- 8.63 In our evidence for Grendon Underwood and Edgcott Parish Councils we have presented 6 views for the development (Appendix 1 & 2), all of which can be checked and tested by others. These are considered to be presented at a fair size to illustrate realistically the scale and massing of the proposed developments in their local context.
- 8.64 The resultant images we have prepared are fair and reasonable. They conform with TGN 06/19. We have used highly accurate survey equipment to capture the camera location to 1 cm accuracy. As one of the technical authors behind TGN 06/19, and acting in an independent role, in my opinion and as a matter of good practice these images should give the Inspector, and the public confidence in what is being presented to them.
- 8.65 That is not the case with any of the images as presented by Pegasus. These fail to meet the technical standards expected of major development contained in TGN 06/19, and many wireline visualisations fail to capture the full site extents. There is no Technical Methodology which explains their approach to the photography, 3D modelling and visualisation work.

9.0 Written Representations

Parish Councils

- 9.1 Hillesden Parish Council, East Claydon Parish Council, Steeple Claydon Parish Council, Gawcott with Lenborough Parish Council, Marsh Gibbon Parish Council, Middle Claydon Parish Council, Charndon Parish Council, Calvert Green Parish Council all made written submissions objecting to the proposed development.¹³⁶ Many of the matters raised were either raised at the Inquiry by Parish Councillors (and I have therefore included the detail of the

¹³⁵ CD/D23

¹³⁶ CD/

comments made) or made by other Parish Councils. The matters raised are summarised below.

- 9.2 Numerous Parish Councils raised issues in relation to access, traffic and highway issues, as well as carbon emissions/sustainable transport and light pollution.

Environmental Impact

- 9.3 The proposed prison would result in the creation of a continuous built up or semi built-up area extending from the Greatmoor Waste Incinerator, through the Calvert landfill, the present Springhill and Grendon prisons, the HS2 Infrastructure Maintenance Depot and up to Steeple Claydon and Twyford. This would seriously impact on the rural landscape, local wildlife, and the natural environment.

Local Infrastructure

- 9.4 A prison of 5000 inmates plus staff and ancillary workers would be far larger than even the largest local village of Steeple Claydon. This would require a substantial development of drainage, water supply, foul water drainage (sewers), energy supply, and general waste disposal.

Surface drainage

- 9.5 Much of the site is low lying, flat land with a heavy impermeable clay. This is all former marshland in the vicinity of the village of Marsh Gibbon. There is a risk of increased surface runoff resulting in regular flooding at the site and in the area around.

Landscape quality

- 9.6 The area is significantly impacted by the building of HS2, East West Rail and the development of several new fairly large housing estates nearby. These projects are causing a huge impact not only on the residents but have also destroyed the habitats of wildlife and seen the Calvert Jubilee Nature Reserve being destroyed.
- 9.7 Failure to understand that the diminution of open space by developing the green fields around Springhill degrades the environment for residents which would adversely affect their mental well-being;

Cultural Heritage

- 9.8 There is also much archaeological interest in this location with many significant finds in recent years which are not unexpected bearing in mind the nearby Roman Road (Akeman Street A41) and the ancient Bernwood Forest

which is still evident at Doddershall, Grendon, Sheephouse and Finemere Woods. The HS2 construction work has also unearthed items of interest.

- 9.9 A medieval ridge and furrow field at the entrance to the proposed site would also be destroyed to make way for a new access road and football pitch.

Other Matters

- 9.10 The proposal contravenes all three of the sustainability objectives set down in the Government's NPPF for sustainable development. There is disregard, for the permanent disruption which this proposal would bring to the communities of Edgcott and Grendon Underwood. Edgcott would be overwhelmed.
- 9.11 There is a failure to appreciate the cumulative effect of the multiple state-sponsored big infrastructure projects already under construction in the locality and the negative effect on the lives and mental health of the wider population of north Buckinghamshire.
- 9.12 There is a failure to evaluate the supply and affordability of accommodation for those who would work at the new prison, meaning the majority of staff would unsustainably commute to the new prison.
- 9.13 There is a failure to take account of the increased costs of developing on this sloping site with the difficulties of draining into a surrounding area already subject to flooding.
- 9.14 Local retail shops, doctors' surgeries, local schools, and local District Nursing community locations are accessed via the above inadequate network of narrow, ill-surfaced roads, which is already stretched to full capacity by existing construction traffic. This vital access would be severely compromised by any further increase in heavy traffic, to the detriment of community wellbeing.
- 9.15 Residents are exposed to noise and light pollution daily, particularly when the prisoners are in the open areas. Not only that, but due to the nature of a Category D prison, there is a constant stream of prisoners absent without leave, causing a significant amount of stress to local residents. Nothing seems to be done to negate these matters.
- 9.16 The proposed site for the new prison is located very close to residential properties. With contraband getting into prisons at a record high, what measures will be put in place to ensure perimeter security and stop visitors coming to the area and making attempts to throw/drop items over perimeter walls? The use of drones to do this has increased across the country and

therefore is easily achievable, particularly in a new prison where there are always going to be teething problems to start with.

- 9.17 Charndon and surrounding villages currently have a significantly low crime rate, which we strive to keep. The mega prison will start to introduce criminal associates to the area and expose our villages and homes to such persons.

Buckinghamshire Gardens Trust ¹³⁷

- 9.18 BGT commented at the time of the original planning application in September 2021¹³⁸ and again in December 2021.¹³⁹ Both submissions were accompanied by a site dossier prepared as part of The Buckinghamshire Gardens Trust (BGT) Research and Recording Project. Although broadly similar in content, there are a number of differences between the dossiers and I have therefore relied on the most recent version that was revised in December 2021 (CD/B13). BGT did not appear at the Inquiry and thus it was not possible to test the submitted evidence.
- 9.19 BGT has identified what it considers to be the key elements of the late C19 country house designed landscape. Its associated structures survive to a high degree and are of considerable significance to the county of Buckinghamshire. BGT believes that the scheme would give rise to a high level of damage to the historic environment, particularly the parkland, and its prominent and important immediate setting.
- 9.20 BGT finds that the proposals would cause significant, irreversible and highly harmful damage to the fabric and character of Grendon Hall designed landscape and to the northerly setting. The setting of the Grade II listed Hall and gate piers and metal fencing at the entrance to the prison site would also be damaged.
- 9.21 BGT states that the layout of the site survives considerably intact, except for a 7ha. housing estate in the South Park and HMP Springhill Prison buildings in the pleasure grounds around the Hall to the east and south. It considers that the potential exists for former features related to the designed landscape since the 1880s to be uncovered, such as buildings, paths, beds, terraces, boundaries, and the lost north drive.
- 9.22 The 1880s design incorporated hedgerow trees as specimens in the new park and a straight main drive was framed by an avenue. Some of the early specimen trees survive enclosing the informal lawns within the modest pleasure ground. The rural setting enjoys views over the Vale of Aylesbury to the south, south-east and west. Views remain from the house north-east towards Edgcott and from the pleasure grounds and park south-west towards

¹³⁷ CD/B10, CD/B11, CD/B12 & CD/B13

¹³⁸ CD/B11

¹³⁹ CD/B12

Mill Hill, Doddershall Wood, and south to the village of Grendon Underwood and Waddesdon Hill in the distance.

- 9.23 BGT considers that there is also potential archaeological interest due to evidence of Roman occupation, given the proximity to Akeman Street and archaeological evidence nearby along the route of HS2. The medieval Forest of Bernwood provides this area with a unique heritage, many of the features and place names being a direct legacy of the ancient royal forest. The park itself is rich in ridge and furrow.
- 9.24 BGT considers the North Park to be of high significance to the ornamental designed landscape. In particular, it formed a sweeping whole, along with the South Park, and provided the immediate setting for the most important element of the designed landscape, namely the garden to the west and south of the Hall. The North Park is also the setting for key extensive views from the Hall west and south-west to distant Otmoor and Graven Hill near Bicester, as well as for key views from the circuit path around the garden perimeter. BGT also considers that the North Park provides the immediate setting for the Listed Grade II gateway and main drive and frames distant views of the elevated Hall and gardens from the public road, particularly north of the Lodge leading into Edgcott.
- 9.25 BGT submits that the proposals for the North Park are highly damaging to key elements of the design. These proposals would destroy the late C19 historic fabric and character of the North Park by the introduction of alien features, including the new gateway, road, sports pitches, pond and landscaping.
- 9.26 The South Park is also the southern setting for the main drive and Listed Grade II gateway. It was not physically divided from the north by a fence line, and the drive was not fenced in order to promote the parkland character for visitors as a seamless whole. Although the South Park would not be physically affected, it would sustain damage in its setting to the north from major new development. This would be highly intrusive in the panoramic views particularly from the ornamental park gateway and the important panoramic park viewpoint on the high point of Spring Hill.

Springhill Residents Group

- 9.27 We are very concerned about the impact of the proposed prison site due to the scale and location. We would be living within 20-30m of an area actively used by inmates with the current proposal. At present the prison impacts on us minimally. There is a high level of traffic at certain points of the day but it is easy to avoid contact with prisoners in our area. With the proposal of having an activity area and football pitch within close reach of the housing development increases access and proximity to people who would likely be a danger to our residents through behaviour and influence.
- 9.28 The traffic impact of this proposal is causing grave concern.
- 9.29 Flooding is a common concern for residents in this area. We do not have any confidence that the management of this would be improved when residents

have had to consult with the parish council, MP Greg Smith and Buckinghamshire Council to get their concerns addressed.

- 9.30 The CPRE (Countryside Charity Buckinghamshire) have demonstrated the current level of light and noise pollution in the area as being high from the existing prison estate. Through this proposal of building one of the largest prisons in the country would create unprecedented light and noise disturbance within open countryside. The placing of the buildings would be on the horizon shining essential lighting all through the night, every night.

Other Representations

- 9.31 There were 476 comments during the application period. These comments raised the following additional matters.

9.32 Noise pollution:

- Impact of noise from construction and earthworks would affect the community.
- Increased noise levels from the operating of the prison.
- Increased traffic would increase noise in the area.

9.33 Residential Amenity:

- Quality of life would be totally destroyed by the construction of a prison and in particular, a football pitch.
- All disruption would be on top of current disruption created by HS2 and EWR construction.
- Loss of privacy and sense of security to houses that overlook the site.
- The prison buildings would overlook many properties in Edgcott and Grendon Underwood.
- Impact on air quality due to traffic.
- The existing prison emits unpleasant cooking smells from the kitchen, another kitchen would add to this.

9.34 Location/ Design:

- The current rural view would be replaced with noise barriers and floodlighting, severely impacting quality of life and mental health.
- The design of the proposal is completely out of character with the surrounding rural area.
- Loss of all green space in the area.

9.35 Landscape/Character:

- The prison would also be visible day and night from surrounding areas including Quainton Hill, Brill Hill, Waddesdon and Ashendon, which are all popular destinations for walkers.
- The size of the prison would dominate not only the villages of Grendon Underwood and Edgcott but all of the Aylesbury Vale region.
- Loss of green space around the Springhill housing estate which contributes to the character and appearance of the immediate area.

9.36 Heritage/Archaeology:

- The field where the new site entrance and road, as well as the football pitches would be located, forms part of the a historic park and locally significant Grade II listed property.
- Impact on setting of Grendon Hall and Lawn House.
- The Grade II listed Church and additional Grade II listed buildings within Edgcott and Grendon Underwood would also be permanently affected by the scale, noise, and light pollution of this development.
- The proposal overlooks the historic association between Grendon Underwood/Edgcott and Shakespeare.
- Potential for evidence of Roman occupation on the building site is high given the proximity to Akeman Street.
- Potential for remains relating to prehistoric activity within the site.

9.37 Traffic & Highways:

- Those who want to visit prisoners who do not have cars may not be able to get to visit the prison due to inadequate provision of public transport. This would have a detrimental effect on prisoners and their families,.
- The existing prison is served by bus routes which stop on Grendon Road, about a 10-minute walk from the prison.
- The proposed car park is not big enough, it has 453 spaces, staff numbers alone are estimated at 734 plus visitors. A similar model for parking spaces was used at HMP Berwyn and a further 194 spaces had to be added.
- The proposed new access road is too close to the existing prison entrance and would lead to congestion, delays and even accidents.
- The surrounding roads are unsuitable for cycling.
- The Outline Travel Plan states that a car sharing scheme would be developed for staff, however staff would be working a variety of shift patterns and live over a widespread area making a wide-spread car sharing scheme unlikely.

9.38 Wildlife

- Irreversible loss of countryside (73 acres).
- Habitats of local level ecological importance removed within the development proposal, including:
 - 1.95km of hedgerows.
 - 0.03ha broad leaved woodland.
 - Great crested newt terrestrial habitat.
 - Seven species of bats.
- Protected birds including some that are red-listed as a Bird of Conservation Concern.
- A badger sett at the west of the site and use the site for foraging.
- A breeding population of common lizards.
- Butterflies, Invertebrates including toads, grass snakes, aquatic invertebrates etc.
- A wildflower meadow.

- The ecological consultants state it would take 25 years for a positive effect on habitats at a local level. The development would therefore negatively impact the environment for 25 years.
- Topsoil would be destroyed during construction.
- The site is within the Impact Risk Zones for the Grendon and Doddershall Woods and Sheephouse Wood, which are two SSSIs nearby.

9.39 Over the years there has been a steady flow of absconders from the Category D HMP Springhill, this makes residents feel very insecure about the new Category C prison.

- The plans for the prison and the football pitches would put local children in close proximity, with offenders.
- The prison should be sited far away from residential areas.

9.40 Infrastructure:

- Local infrastructure is already struggling to cope. The addition of 1400 inmates as well as employees would add to the strain of infrastructure.
- Area is already prone to flooding and this proposal would exacerbate a serious problem putting local houses at risk of flooding.
- Lack of local infrastructure to cope with current demand for housing, doctors and schools.
- Increased strain on emergency services.
- The Police Commissioner has stated that the Thames Valley Police do not have the staffing capability to cope with the increased problems associated with the prison population.
- Most of the services that the new prison would require would need to be upgraded, such as drainage systems and installation of a new electrical substation, which would cause disruption for the area.
- The sewer system in Edgcottis already overcapacity.

9.41 Location:

The location of the prison is wholly unsuitable. It is an inappropriate location based on where inmates would come from. The new prison should be situated closer to the conurbations from which the offenders come. Buckinghamshire has a disproportionate number of prisons and secure units for the size of population and crime incidence.

- The site is within 40 miles of 10 existing prisons which is more than 10% of prison capacity of England and Wales, the new prison would increase this to more than 12%. This is an inequitable distribution.

9.42 Other issues:

- Concerns about the MoJ's plans to expand HMP Springhill by 120 places on top of this proposal. Springhill expansion should have been submitted alongside the new prison application.
- Building and maintaining prisons is a violent, classist and racist endeavour and it needs to be stopped. If you build it, it would be filled. Prisons are a human right violation and a stain on a civilised society. Building another

prison would only serve to continue incarcerating people who often need support from elsewhere.

- Concerns regarding welfare of prisoners and moral issues relating prisoners being held in such a facility.
- Prisons do not prevent crime, they only displace people and ensure the crime happens to a vulnerable population such as prisoners themselves.
- A prison of this size should not be built so close to village communities.
- Two planning applications for development of 65 and 60 houses, located on Edgcott Road and Land South of Springhill Road, were rejected on appeal by the Inspector. The primary reason for rejection was that these locations were not sustainable and deemed inappropriate for building.
- Planning applications on nearby land have been turned down and appeals rejected. The same rationale applies to this application and should be rejected for the same reasons the Secretary of State has rejected other local and smaller applications.
- The money it would take to build and run could be spent on preventative measures to behaviours which are criminalised, for things which can improve the health and safety of the community, such as health care and schools. Valuable resources should not be going towards projects of this nature.

9.43 Property Concerns:

- Likely to have a negative effect on house prices in the area.
- With HS2 being built around this area and the development of this new prison this area would become undesirable.
- Increases to home and car insurance.
- Roadside dwellings are constantly being shaken by the constant heavy construction traffic, some showing evidence of cracks. Further construction traffic is putting local homeowners at risk of structural damage to properties.
- An environmental impact assessment should have been submitted.

9.44 Application

- The application does not demonstrate how they have discounted brownfield sites and other potential sites.
- In response to a freedom of information request, the MoJ commented that no-planning application discussions had taken place with other local authorities. Hence, the MoJ has not undertaken cost/benefit analysis of the Grendon Underwood site versus alternatives.
- The proposal is yet another example of many others; the necessary factual details have not been put forward for proper planning scrutiny because to do so it would demonstrate the impossible.

9.45 Concerns with the selection of the site:

- The Grendon Underwood site does not meet the site selection criteria used for a new prison near Wrexham, HMP Berwyn, which opened in 2017.
- It is not sufficiently flat.
- It doesn't have good strategic access to public transport and road networks. It isn't accessible for construction traffic without major enhancement of transport infrastructure e.g. building a new site entrance to access the main construction site.
- The site is overlooked which may compromise security.
- There are severe standing water issues within the prison site as well as surrounding areas.
- It is not previously developed/brownfield.
- It is not a suitable shape for a prison development as it is horseshoe shaped.
- It is not manageable in terms of ground conditions due to the heavy clay soil in this area.
- There are public rights of way running through the site which are significant to and widely used by the local community. Its diversion would impact the local community.

9.46 4 comments have been received neither supporting nor objecting to the proposal:

- Should this plan proceed, extra public transport should be put in place to allow both prison staff and visitors to be able to travel using public transport.
- Prison construction traffic should not be allowed through Edgcott or Grendon Underwood, only from the A41 along Broadway.
- There should be resurfacing and better maintenance of roads and pavements within the Springhill estate.
- There needs to be a commitment, valid for 50 years, that no further development would occur on green space in the surrounding area.
- Existing footpaths should be maintained or enhanced, not diverted.
- Buildings should be low-rise and fit beneath the tree line so as not to spoil views.

10.0 Planning Obligations

- 10.1 The parties submitted an agreement, dated 13 February 2023, under section 106 of the Town and Country Planning Act 1990. The appellant also submitted a UU of the same date under section 106 of the Act. The Council submitted a CIL compliance statement and I have taken this and the discussions in the roundtable session into account.
- 10.2 The planning agreement is conditional on the Secretary of State finding that the obligations within the deeds are compliant with regulation 122 of the

Community Infrastructure Levy Regulations. I shall firstly address the Planning Agreement, and then turn to the UU.

Planning Agreement

- 10.3 The First Schedule sets out the owner's covenants with the Council, whilst the Second Schedule sets out the Council's covenants. Part 1 of the First Schedule undertakes to manage and maintain the Sustainable Urban Drainage System (SuDS) for the lifetime of the development in accordance with the approved drainage condition. On the basis of the submitted evidence I am satisfied that the ongoing management and maintenance of the SuDS is necessary and reasonable in order to mitigate flood risk and for reasons of biodiversity.
- 10.4 Part 2 addresses the Highway Works Delivery Programme Provisions. These include details of the new access to the proposed development and improvements to the Broadway and the A41. This obligation complies with the CIL regulations for reasons provided in the Council's CIL Compliance Statement, namely to ensure the provision of safe and suitable vehicular and pedestrian access and to mitigate the effects of the proposed development on the A41 Junction with the Broadway.
- 10.5 Part 3 concerns the Travel Plan Obligations. It includes a Travel Plan Monitoring fee of £1000 for a period of five years. There is also a requirement for a Travel Plan Co-ordinator for a period of at least five years, together with a Travel Plan. The Travel Plan is required to accord with the Outline Travel Plan. This includes a car parking strategy, car sharing strategy, public transport strategy, cycling strategy and aims to reduce single occupancy car trips.
- 10.6 The Council's covenants in the Second Schedule require it to issue receipts as soon as reasonably practicable.
- 10.7 I conclude that each obligation would comply with the relevant statutory tests and should be a material consideration in relation to this appeal.

Unilateral Undertaking

- 10.8 The UU covenants to pay the bus service contribution of £485,000, the bus stops improvement contribution of £50,000 and the Council's monitoring fee.
- 10.9 The bus service contribution would be used towards funding and extra bus service over a period of 10 hours per day, 6 days per week to Aylesbury, or the provision of a new bus service to Bicester Village Railway Station. The bus service contribution would be spread over a period of five years. The bus stop improvement contribution would be used to provide a new bus shelter and the implementation of a real time passenger information, together with the relocation of the Edgcott bound bus stop.
- 10.10 The Council consider that the bus service contribution would not meet the statutory tests for CIL since it would not address the unsustainable location of

the appeal site and therefore would not make the development acceptable in planning terms. [7.115]

10.11 The sustainability of the location of the appeal site is discussed below. The proposed bus service improvements seek to address the mismatch between the shift times of those employed at the proposed prison and the times of the morning and evening buses. It would provide an alternative to the use of the private car for some staff thereby encouraging the use of sustainable transport. I am therefore satisfied that the contribution **meets the relevant tests for reasons discussed in my conclusions.**

11.0 Recommended Conditions

11.1 The parties submitted a list of agreed suggested conditions. These were modified to reflect discussions during the course of the Inquiry. The final agreed version is INQ 31. Where necessary the wording of the conditions has been adjusted as discussed at the Inquiry, in the interests of clarity and precision. I have considered the suggested conditions in the light of the guidance at paragraph 56 of the NPPF and that within PPG.

11.2 If the Secretary of State is minded to allow the appeal and grant planning permission, I recommend that the conditions set out in Annex D be imposed. The condition numbers referred to in brackets below reflect those set out at Annex D, not the numbering in the suggested schedule.

11.3 Suggested Conditions 1, 2 and 3 are required in order to set the necessary time frame for the implementation of the proposed development. (Conditions 1,2,3)

11.4 Suggested Condition 4 requires the proposed development to be carried out in accordance with the approved plans. (Condition 4) This condition is necessary in the interests of precision. During the course of the Inquiry the lighting plans were removed from the approved plans and it was agreed that this matter could be determined at a later stage. It is not necessary to refer to the various reports within the suggested condition since these have informed my conclusions below. Where necessary the specific recommendations are secured by other conditions.

11.5 During the Inquiry the parties agreed a parameter plan. This included a information in relation to the vegetation to be retained, the height of buildings above AOD and the acoustic fencing proposed. Landscape is one of the reserved matters and therefore does not need to be secured by this condition. As agreed at the Inquiry the acoustic fencing is the subject of sperate conditions. Therefore compliance with the parameter plan should be confined to the maximum height of buildings above AOD. This is necessary in

the interests of protecting the character and appearance of the area. I have included this as condition 5 at Appendix D.

- 11.6 Suggested Condition 5 requires vehicular visibility splays at the junction of the proposed access. This condition is necessary in the interests of highway safety. (Condition 6)
- 11.7 Suggested Condition 6 requires the parking and manoeuvring area shown on the block plan to be provided prior to the initial operational use of the prison. (Condition 7) Suggested Condition 7 requires secure cycle parking to be provided. These conditions are required to ensure sufficient on-site parking provisions and suitable and sufficient cycle parking provision in the interests of sustainable travel. (Condition 8)
- 11.8 Suggested Condition 8 requires the provision of electric vehicle charging points. It requires a higher provision than Policy T8 of the VALP would require. This is to ensure the additional benefits attributed to the scheme can be secured. (Condition 9)
- 11.9 Suggested Condition 9 seeks a Construction Traffic Management Plan. I agree that this is necessary in the interests of highway convenience and safety given the other major infrastructure projects in the wider area. (Condition 10)
- 11.10 Whilst I agree that any damage to the highway from construction vehicles should be made good by the appellant, there are other mechanisms available to the Highway Authority. Such a condition is not necessary and would not comply with the tests in the NPPF. I therefore do not propose to impose suggested Condition 10.
- 11.11 Suggested Condition 11 requires an interpretation board to be installed adjacent to the area of the existing ridge and furrow. Should the appeal be allowed this feature would be lost and therefore the board is necessary to improve the understanding of the historical context of the site. I have amended the implementation period to prior to the first operational use. (Condition 11)
- 11.12 Suggested Condition 12 requires details of the appearance of the proposed entrance and signage. I agree that this condition is necessary in order to minimise the impact of the proposed development on the listed piers and gates. (Condition 12)
- 11.13 Suggested Condition 13 requires details of boundary treatment. This is necessary due to the historical context of the site and also to ensure that the effect of the proposed development on the surrounding area is minimised. (Condition 13)
- 11.14 Suggested Condition 14, requires an archaeological survey of the ridge and furrow remains. Suggested Conditions 15, 16 and 17 require a detailed archaeological evaluation of the site, a methodology for the retention of any remains in situ where possible, and a programme of archaeological work.

These conditions are all necessary to safeguard any archaeological evidence on the site. (Conditions 14,15,16,17)

- 11.15 Suggested Condition 18 specifies the matters that should be included as part of the reserved matters in relation to landscaping. This condition is necessary to ensure that the proposed development integrates with the surrounding landscape. (Condition 18) I have removed the references to boundary treatment and other matters that either come within the scope of the approved plans or are required by other conditions. Suggested Condition 19 requires replacement planting for trees and shrubs that die, whilst suggested Condition 20 requires retained trees and hedges to be protected. These conditions are necessary to provide an acceptable landscape setting for the proposed development and in the interests of biodiversity. (Conditions 19 and 20)
- 11.16 Suggested Condition 21 requires a scheme for the new playing pitch, whilst suggested Condition 22 requires it to be made available prior to the commencement of development of the existing playing field and Condition 23 requires the provision of the running track and replacement outdoor gym equipment. These conditions are necessary to ensure that suitable replacement sports facilities are provided. (Conditions 21,22,23)
- 11.17 Suggested Condition 24 requires the recommendations in respect of the Black Hairstreak Butterfly survey and the Bat survey to be implemented. Suggested Condition 25 requires the submission of a Landscape and Ecological Management Plan. Suggested Condition 26 requires the submission of Construction Environmental Management Plan for biodiversity (CEMP:Biodiversity). Suggested Condition 27 requires a revised BNG Report and Metric, including a monitoring plan. Suggested Condition 28 requires a biodiversity monitoring plan. All of these conditions are necessary to ensure that the proposed development delivers a suitable level of BNG and to mitigate the effects of the proposed development on biodiversity. (Conditions 24,25,26,27,28) Suggested Conditions 29, 30 and 31 all seek to safeguard great crested newts under the district licensing system. (Conditions 29,30 and 31)
- 11.18 Suggested Condition 32 requires further investigation works in relation to the potential for contamination in the vicinity the former ponds and demolished buildings along the northern part of the site. This condition is necessary in order to safeguard health and is proportionate in the light of previously submitted information. (Condition 32)
- 11.19 Suggested Condition 33 requires a Construction Environment Management Plan in order to safeguard resident amenity. (Condition 33) Suggested Conditions 34 and 35 require an assessment of noise arising from the proposed development on the occupants of Lawn House and Park Road/Springhill Road, and if necessary a scheme to safeguard these residents from the adverse effects of noise. This matter is discussed in more detail in my conclusions below, but it is to ensure that an appropriate balance is struck between the need to minimise heritage and landscape harm and to safeguard the living conditions of nearby residents. (Conditions 34 and 35) A

piling method statement is necessary to safeguard the living conditions of the occupants of Lawn House. (Condition 36)

11.20 Suggested Condition 37 requires a surface water drainage scheme based on SuDS. This is required in order to manage flood risk and in the interests of sustainability.(Condition 37)

11.21 Suggested Condition 38 requires details of existing and proposed levels in order to ensure that the proposed development relates satisfactorily to the setting of the site. I agree that this is necessary to minimise the impact of the proposed development on the surrounding landscape and heritage assets. (Condition 38) Suggested Condition 39 requires details of energy efficiency and building sustainability. This condition is necessary in order to limit the impact of the proposed development on climate change. Condition 39) Suggested Condition 40 requires a lighting strategy to minimise the impact of the proposed development on biodiversity, the surrounding rural area and the historic context of the site. (Condition 40)

12.0 Inspector's conclusions

The following conclusions are based on the oral and written representations to the Inquiry and on my inspection of the site and its surroundings. The numbers in parentheses thus [], refer to paragraphs in the preceding sections of this Report from which my conclusions are drawn.

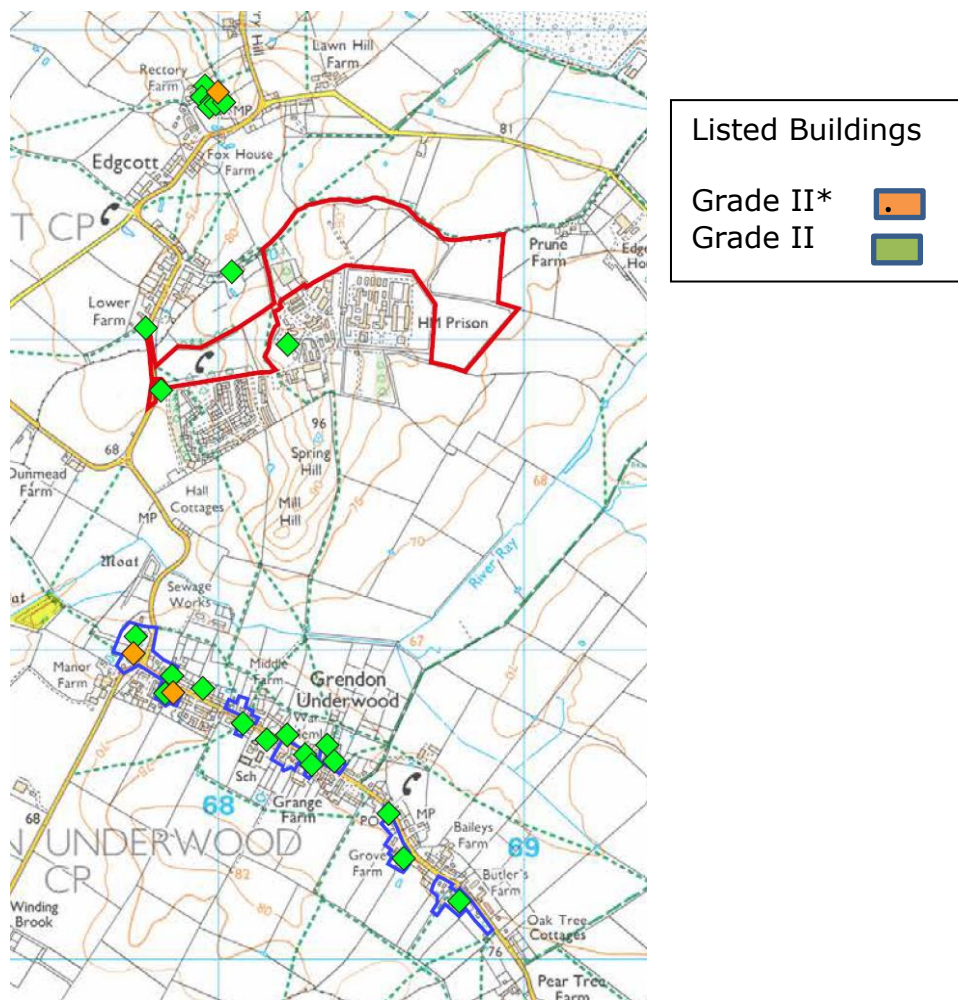
12.1 Having regard to the reasons for refusal pursued by the Council, together with the development plan context, statutory obligations in terms of heritage assets, and the evidence of interested parties on other matters, I find that the main considerations that need to be addressed relate to:

- The effect of the proposed development on the significance of designated and non-designated heritage assets, including the historic landscape;
- The effect of the proposed development on the character and appearance of the surrounding landscape;
- Whether the proposed development is in a suitable location having regard to sustainable transport;
- The need for the proposed prison;
- Whether loss of the sports field would be adequately mitigated;
- The benefits of the proposed development;
- The effect of the proposed development on the existing highway network.

12.2 Heritage

12.2.1 There a number of heritage assets close to the appeal site and within the wider area. I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

The parties agree that the proposed development would give rise to harm to a number of the identified heritage assets, although they differ as to the level of harm. The location of the assets close to the site is shown on the plan below.



12.2.2 The application was accompanied by a Heritage Statement. The listing descriptions are included at Appendix 1.0 of the Heritage Statement.¹⁴⁰ This was reviewed by Dr Miele on behalf of the appellant. Whilst he broadly agreed with the conclusions, he differed in terms of the harm to Grendon Hall, Lawn House and the NDHA. As a consequence of Dr Miele's review a number of changes were proposed prior to the Inquiry and I have taken these into account in these conclusions.[1.10]

Grendon Hall

12.2.3 Grendon Hall was listed as Grade II on 26 February 1985. At the time of listing, the Hall was in use as part of the prison complex and a number of more modern buildings had been constructed in the immediate vicinity of the

¹⁴⁰ CD/A22

Hall, together with the prison estate to the north and east and the housing at Park Road/Springhill Road. In addition, the original lodge at the entrance to the Hall had been demolished and replaced with a modern 2 storey building.

- 12.2.4 Grendon Hall was built as a Private Residence, in about 1880. It is a late Victorian grand house designed by an amateur architect. Based on the available evidence it would seem that it was designed by the Rev. Randolph Henry Piggot for his brother Sir Thomas Digby Piggot. The Piggot family resided at Grendon Hall until the death of Rev. Piggot in c.1900, at which point the Hall was sold. Grendon Hall and its grounds was subsequently requisitioned during the Second World War for military use. During this period a number of buildings and other facilities were constructed in the vicinity of the Hall and the surrounding parkland.
- 12.2.5 The significance of Grendon Hall lies principally in its historic and architectural interest as an example of a minor 19th century country house designed by an amateur architect. The architectural interest of Grendon Hall is intrinsic to the house itself and is found in the surviving historic fabric, the Jacobethan E-plan building form and the high-quality detailing of the southern and western elevations. The Heritage Statement advises that the internal fabric of the Hall has undergone considerable alteration following its modification by the military during the Second World War and it now serves as functional office space.¹⁴¹ The historic interest of the Hall and its wider environs is also derived from the transformation of the Hall from country residence to a WWII military base, and subsequently an open prison.
- 12.2.6 After the Second World War, the Hall and its grounds were utilised as a fire college and later a home for displaced persons. In the 1950s the prison complex was established at HMP Springhill, and later, HMP Grendon. Grendon Hall itself has since been utilised for administrative use by the prison complex. The Springhill estate to the south of the drive occupies an area of about 7 ha.
- 12.2.7 The setting of Grendon Hall has been diminished due to the range of buildings and uses established within the immediate vicinity of the listed building. Whilst those closest to the listed building are generally small-scale single storey buildings, they are unrelated to the original building in terms of location, appearance or function. To the north of these buildings lies the larger structures and buildings that comprise HMP Grendon.
- 12.2.8 The parties agree that the stable yard, walled garden and the planted pleasure grounds contribute to the setting of Grendon Hall. Whilst the appellant acknowledges that the wider parkland continues to make a contribution to the significance of the Hall, the parties differ as to the extent of this contribution.[6.19,6.20,7.77]
- 12.2.9 The Council's position is that the Hall sits within a designed landscape comprising gardens and parklands which was intended to frame key views from the Hall across the wider landscape, as well as glimpsed and kinetic views on the approach from Grendon Road. This view is supported by the Gardens Trust. For this reason, the Council considers that the landscape

¹⁴¹ CD/E6 Appendix 2 p22

views from the park and garden setting contribute to the building's significance, and as such have inspired the design of the building and its relationship with other heritage assets. [7.78-7.83]

- 12.2.10 The appellant disputes that the North Park and South Park were a designed landscape and draws attention to a series of OS Maps including the 1880 map. These maps show that the changes to the landscape following the construction of the Hall comprise the provision of the driveway and an avenue of trees, and the opening of a gap within the hedgerow trees to the west of the house to provide extensive views across the landscape to the west. New features were largely confined to the driveway and the pleasure gardens. The evidence, including the planting of specimen trees does not support the view of the Council and BGT that the landscape was designed to frame key views to and from Grendon Hall. [6.27]
- 12.2.11 It is probable that there would have been views of the Hall from Grendon Road and also views from the Hall towards Grendon Road at the time of construction. However, such views are now largely obscured by the planting around the western and southern boundaries to the pleasure gardens. Even during winter months views to and from Grendon Road are barely discernible. The trees surrounding the pleasure gardens are specimen trees, and include poplar, walnut and pine. They enclose views to and from the pleasure gardens and as such limit the presence of the Hall within the landscape. I therefore do not consider that these views contribute to the significance of the Hall.
- 12.2.12 The BGT identifies two external views from Grendon Road towards the North Park. From my observations at the time of my site visits and photographic evidence submitted by the parties such views are not present due to the topography and intervening vegetation along Grendon Road and within the site, including the specimen trees in the pleasure gardens. Similarly, there were no clear views from the south lawn towards Grendon Road. Given that the BGT Report is so recently prepared, and that my visits took place in January and February when the screening provided by the trees and hedgerows would have been reduced, and I fail to understand why they were considered to be 'key views.' [7.81]
- 12.2.13 Both the Council and BGT refer to the importance of the kinetic views when travelling along the driveway. However, the Hall is largely obscured from view until the drive turns north and the Hall suddenly comes into view across the south lawns. I agree that the view from the driveway across the lawns add to the significance of the Hall. Notwithstanding this, the entire journey along the drive is also characterised by the built development and prison infrastructure along the length of the southern boundary. [7.82]
- 12.2.14 The house was designed with the principal elevations facing towards the landscape to the south (across the driveway). This arrangement would afford views from the upper floors of the dwelling across the landscape. The pleasure gardens to the front and west of the Hall make a more tangible contribution to the appreciation of the architectural and historical significance of the house. From this location the architectural design and materials of the building, its proportions, as well as its architectural style, can be appreciated.

However, even the contribution of this area has been diminished by the provision of parking areas close to the main and west elevations.

12.2.15 The views from the front of the house are also limited due to the specimen trees around the pleasure gardens. I agree that the views at the time at which the Hall was newly built and laid out are not generally designed views, since the planting around the terraces of the pleasure garden intentionally limited these views. Thus, whilst they may be recoverable, as suggested by BGT, I consider that to do so would remove the designed planting provided to limit such views and would thereby harm the setting and significance of the Hall.

12.2.16 The Appendix to the BGT dossier also identifies key views from the western part of the site. It is accepted by the appellant that some of the vegetation in this location was removed to provide views across the landscape. Views from the western part of the terrace are less extensive than indicated by the BGT diagram due to the intervening vegetation. Whilst there is agreement between the parties that this was a planned viewpoint, there is little evidence to support the Council's view that this was part of a designed landscape. There is no discernible network of footpaths, or viewpoints, other than the possible seating area close to the Hall. [7.79]

12.2.17 Overall, I find that the setting of Grendon Hall has been significantly diminished through development associated with the uses of the site during the second part of the 20th century. Indeed, the contribution of the setting to the significance of the Hall would have been diminished even at the date at which the Hall was listed. The remaining pleasure gardens to the south and west of the Hall still make a significant contribution to its setting, but the contribution of the wider landscape is limited to the views towards the west. I find that North Park makes a limited contribution to the significance of Grendon Hall. [6.20]

Effects of the scheme on setting and significance of Grendon Hall

12.2.18 The Council considers that the proposed development would harm the significance and setting of the Hall due to both physical and environmental effects. It considers the physical effects to be due to the loss of designed views, visually intrusive development and the creation of a competing entrance.[7.84]

12.2.19 The proposed development has been amended in order to reduce the harm to the heritage assets and the landscape. The proposed access road would be noticeable from the western viewpoint. Such views would include any acoustic fencing and lighting. As acknowledged by the appellant, the proposed access would have an urbanising effect on views from the western terrace and, due to this, could potentially impact on the setting of the Hall. There would also be changes to some of the views from pathways surrounding the Hall, with the football pitch and pond toward the western most part of the site being visible. However, the principal views from the Hall are towards the south. These views have already been greatly harmed by the

introduction of more recent development. The proposed development would not add to this harm. [6.21,6.22, 7.85,7.86]

12.2.20 There would also be a potential for the significance of Grendon Hall to be harmed by additional vehicular movements and associated noise, as well as road infrastructure and lighting. The additional traffic generated by the proposed use would use the road to the north of the Hall rather than the existing access. At its closest point the access road would be about 100 metres from the Hall and would occupy much lower land. Views of the proposed road would not be noticeable from the principal elevations of Grendon Hall, although it may be visible from the western viewpoint. Consequently, the proposed access road would have the potential to impact on the significance of the Hall.

12.2.21 Whilst the proposed buildings may be visible from the curtilage of the Hall they would be located to the north of it and would therefore be seen in the context of the existing built development on the site. Due to the intervening development, including HMP Grendon, I do not consider that the proposed buildings would harm the setting of the Hall.

12.2.22 As accepted by Dr Miele at the Inquiry the most harmful aspects of the proposed development in terms of the potential to harm the setting of the Hall would be the proposed road, lighting and acoustic fencing.¹⁴² Details in respect of both the lighting and acoustic fencing are now matters for future determination. I visited the area during the evening and noted that the lighting to the existing access road is not unduly obtrusive within the landscape during darkness. The suggested conditions seek to limit the impact of the lighting on heritage assets and the landscape, as well as biodiversity. Having regard to the screening provided by the existing and proposed vegetation, as well as the distance of the road from the Hall, the proposed lighting would have a very limited impact on the setting and significance of the Hall.

12.2.23 The submitted noise assessment proposes an acoustic fence in two locations due to predicted increases in noise levels. The first of these is in the vicinity of the sports pitch opposite the Park Road/Springhill Road housing. In this location the increase in noise arising from the use of the pitch is anticipated to be 2 dB LAeq, 1hour over the recommended level of 50 dB LAeq, 1hour.¹⁴³ This figure is based on guidance from Sport England rather than a site-specific assessment, and was based on an artificial grass pitch, rather than a grass pitch as now proposed. The proposal is for a two metre high close-boarded fence. The proposed fence would be an incongruous feature in this location, although due to the lack of intervisibility with the Hall it would not diminish the significance of the Hall and there would also be some scope to screen it with planting. However, in the absence of clear evidence that the proposed fence is necessary to safeguard the amenities of residents, having regard to the manner and frequency in which the pitch would be used and the site-

¹⁴² Dr Miele in response to my questions

¹⁴³ CD/A24 Table 12

specific noise levels, it is recommended that this matter should be reserved for future determination.

12.2.24 The second area of acoustic fencing proposed is along much of the length of the proposed access road in order to safeguard the living conditions of the occupants of Lawn House. The Noise Assessment has been based on the change in noise levels as a consequence of the proposed development. In the case of Lawn House the noise levels are predicted to increase by 5 dB(a) during the daytime. Notwithstanding this, the modelled daytime noise levels would remain relatively low. It is therefore recommended that the need for the fence and the extent of the fence in this location should be reserved for future determination and based on a site-specific assessment.

12.2.25 Whilst reserving the detail of the proposed fencing for future determination would assist with mitigating the impact of the proposed development, it is possible that any detailed assessment would find that the extent of fencing required may reflect that shown on the landscape masterplan. I have therefore taken the potential harm arising from the acoustic fencing into account in my assessment.

12.2.26 Taken together, the lighting and the extent of any acoustic fencing found to be necessary would intrude into the landscape and may cause some limited harm to the significance of Grendon Hall. The extent of such harm could be reduced through careful design in respect of the fencing and lighting, as well as an appropriate landscape design.

12.2.27 Overall, I conclude that the proposed development would harm the setting of Grendon Hall through the introduction of the proposed access road, acoustic fencing and lighting, as well as the traffic movements on the road, and the consequential harm to the views from the western terrace. The changes to the topography in the vicinity of the proposed sports pitch would also give rise to a very low level of less than substantial harm to the significance of Grendon Hall. My overall assessment is that the proposal would result in less than substantial harm and would be towards the lower end of the scale. This assessment is closer to the Council's original assessment of negligible harm at the time of the application, rather than the high level of less than substantial harm put forward at the Inquiry. [6.25]

Gates and Piers

12.2.28 Grendon Hall and the existing prison site are currently accessed from Grendon Road. The gateway (listed Grade II) stands on the east side of Edgcott Road. It is marked by two piers flanked by iron pedestrian gates and curved railings. The carriage gates are missing. The piers gates and railings are set back from the road and form the principal entry point to Grendon Hall. The piers are of red brick with stone bases, moulded cornices and obelisk finials. Pedestrian gates and railings are wrought iron, the gates having standard panels with wavy Ionic pilasters and scrolled overthrows, the railings with scrolled standards. The significance of the gates and piers lies in their remaining fabric and detailing, and prominence as the first highly visible introduction and approach to Grendon Hall.

12.2.29 Immediately adjacent to the entrance is a two storey residential dwelling built in about the 1980's that replaced the original lodge. It is larger in scale

than the building it replaced and does not reflect the architecture or materials of either the original lodge or Grendon Hall. Together with the signage for the prison this is the most prominent feature in views when approaching Grendon Hall from the south. On the approach from the north the gates are not visible until almost adjacent to the entrance.

12.2.30 On the south side of the gates and main access is the Park Road/Springhill Road housing. There are also views down the main access towards the gates which frame views of the countryside on the opposite side of Grendon Road. When viewed from Park Road/Springhill Road the piers are viewed in the context of the residential and prison development to the south of the drive, as well as Willow Lodge to the north. These urbanising features detract from the setting of the gates and piers.

12.2.31 The Council considers that due to its proximity to the original existing access the proposed access would represent a competing entrance. The introduction of acoustic fencing along the length of the drive to the northern edge, would result in the loss of glimpsed kinetic views. The Council considers that these two elements together would give rise to a medium to high level of less than substantial harm to the significance of the gates and the gate piers. [6.31,7.98]

12.2.32 At the time at which the proofs of evidence were exchanged the appellant proposed the restoration of the gates, which was to be secured by way of a planning condition. However, the restoration of the gates and piers was also proposed as a benefit in relation to a separate application in respect of development within the walled garden. The appellant accepted that this should not also be included as a benefit of this proposal. [6.30,]

12.2.33 The proposed access would be a short distance north of Willow Lodge and would come into view just before the existing gates when travelling along Grendon Road from the south. From this viewpoint Willow Lodge would remain the dominant feature. The proposed access would not compete with the gates and piers due to the alignment of the road, the presence of Willow Lodge and the manner in which the gates are set back from the road. When travelling from the north the gates and piers would be screened by Willow Lodge and therefore would not be visible in conjunction with the proposed access. I conclude that the proposed entrance would not compete with the existing access to the Hall or harm the significance of the gate and piers.

12.2.34 The gates and gate piers would continue to provide the main access to the Hall. The proposed fencing would (if found to be necessary) be located behind the existing trees and hedgerow, and although it would be visible to some extent, it would be separated from the gates by Willow Lodge. The Park Road/Springhill Road dwellings and Willow Lodge would continue to dominate the setting of the gates, and the proposed acoustic fence would not harm the significance or setting of the gate and piers. The verdant quality derived

from the existing vegetation in close proximity to the gate and piers would remain unchanged.

- 12.2.35 Overall, the proposed entrance would not harm the setting or significance of the gates and piers.

The North Park

- 12.2.36 The former parkland surrounding Grendon Hall has been identified by the Council and the Buckinghamshire Gardens Trust as an NDHA. This area includes the formal pleasure gardens, as well as land to the north and south of the appeal site. It also includes the ridge and furrow which the parties agreed did not need to be addressed independently of the parkland. BGT¹⁴⁴ states that the layout of the NDHA survives considerably intact. I do not share this view because it includes a 7ha area of housing, prison security buildings and other infrastructure adjacent to the southern boundary of the drive, as well as a number of HMP Springhill buildings within the former pleasure gardens. The views of the South Park from the driveway are through and over the built development and car parking areas. Consequently one is not aware of its role as part of the original parkland associated with Grendon Hall. The relatively undeveloped North Park has a more pastoral character in views from the drive by comparison with the South Park. The role of the North Park in terms of framing views to and from Grendon Hall has been discussed above. [9.21]

¹⁴⁴ INQ 34 paragraph 50



TIT:

SCALE:

FIGURE:

Extent of Locally Listed Park and Garden

12.2.37 BGT identifies the North Park as being of “*high significance*” to the “*ornamental designed landscape*”. It suggests that North Park provided the setting for key views from the circuit path around the pleasure gardens particularly from the west end of the main garden terrace, as well as the garden to the west and south of Grendon Hall. A comparison between the 1900 and the 1880 maps, shows that relatively few new features were introduced. The new features included the extension of the line of trees from the south and the avenue of trees to the southern access route to the Hall. These maps indicate that the establishment of the North Park and South Park was conservative in terms of its impact on the landscape. [6.26,9.24]

12.2.38 Whilst I recognise that the Gardens Trust is a statutory consultee, nevertheless its views regarding the design of the landscape and the importance of key views were informed by the BGT dossier and are not supported by either the historical evidence or my observations at the time of my site visits. The main public viewpoints for the NDHA are from the driveway or the PRow. These views are strongly influenced by the built development. The part of North Park contained within the appeal site boundary is now appreciated as a grassy field, gently sloping away from the

environs of the Hall to the west, although it is possible to see the fields and hills further to the west.

12.2.39 The North Park retains evidence of surviving medieval ridge and furrow to the west of Grendon Hall, which is indicative of the historic use of the site as part of the agricultural hinterland associated with Grendon Underwood and Edgcott.[7.70]

12.2.40 Overall the significance of the NDHA is greatly diminished due to the changes that have occurred from the mid 20th century onwards.

12.2.41 The proposed access road, replacement sports facilities and SuDS pond would all be located within the North Park. In addition, an acoustic barrier is proposed between Lawn House and the access road, and the proposed sports facilities and the dwellings at Park Road/Springhill Road. The proposed development would require the area of the proposed football pitch to be levelled. Both this and the proposed SuDS Pond would result in the loss of the ridge and furrow landscape in these areas. The Council characterises these changes as alien to the landscape.[7.84]

12.2.42 The landscape masterplan was revised in order to reduce the impact of the proposed development on the North Park. The changes include:

- The fields in the east part of North Park would be maintained as open meadows with little maintenance and no levelling of the contours of the ridge and furrow;
- The ridge and furrow patterns in these areas would be preserved, and with them an understanding of the agricultural activities that were formerly carried out in these areas;
- The existing hedgerow and informal planting which currently divides the meadow area from the grass fields will be maintained.
- The sports pitch areas in the west part of North Park have been re-planned as grass pitches, reducing engineering works and disturbance to the landform and the lighting originally proposed now removed. The fitness route, which is required as part of the residents' exercise provisions, is proposed to be a mown path as opposed to hard standing thereby

maintaining the open and undeveloped nature of the east part of North Park.

- A strip of woodland is planned along the line of the new access road, imitating the existing line of trees in this location.
- Heritage interpretation boards are to be included in these areas to better reveal and understand these above ground archaeological features.
- The lighting over the sports pitch areas has been removed so views to the west and open countryside would not be obscured and the level of light spill would be reduced.¹⁴⁵

12.2.43 Notwithstanding this, the appellant acknowledges that there would be direct harmful effects to North Park arising from the re-planning of this area and from the groundworks, as well as infrastructure associated with the introduction of the road. There would also be environmental effects from the use of the road. These would change the experience of North Park as the movement, noise and lights would affect the appreciation of this part of the site. [6.27,6.28,6.29,7.85]

12.2.44 There would also be a loss of the ridge and furrow in the area to be occupied by the sports pitch and the SuDS Pond. The Council's Archaeology Officer identified a high level of less than substantial harm but did not object to the proposed development. They did however note that it would be preferable that more of this area is retained. They suggested a draft condition for a programme of archaeological surveying and reporting.¹⁴⁶

12.2.45 The ridge and furrow within the wider landscape is fragmented, although one of the largest areas survives to the south and east of the dwellings at Park Road/Springhill Road.¹⁴⁷

12.2.46 Ms Horton's evidence on behalf of the Council identified the loss of the ridge and furrow landscape in the North Park as the total loss of this feature giving rise to substantial harm. However, the proposed development would result in the loss of about 20-25% of the block of ridge and furrow of which it forms part, and a significantly smaller proportion of the ridge and furrow within the NDHA as a whole. Therefore, the impact of this loss of ridge and furrow on the NDHA as a whole would fall far below the threshold for substantial harm. Moreover, the ridge and furrow is only one facet of the NDHA. Therefore substantial harm to the NDHA would not arise. The retention of some of the ridge and furrow within the appeal site, and the opportunity to provide

¹⁴⁵ CD/E6 paragraph 7.25

¹⁴⁶ CD/B46

¹⁴⁷ The extent of the ridge and furrow landscape is shown on CD/A6 figure 2a

interpretation boards and a management regime would assist with mitigating the impacts.

12.2.47 Overall, I conclude that the proposed development would give rise to a moderate level of less than substantial harm to the NDHA.

Lawn House

12.2.48 Lawn House is a 17th century farmhouse situated on the outskirts of Edgcott village near the western boundary of the parkland associated with Grendon Hall. The main house and ancillary structures are arranged in a 'U' shape around a central courtyard.

12.2.49 Lawn House and its grounds were formerly part of Grendon Hall and the historic park associated with the Hall. It is labelled as 'The Rookery' on OS maps from the late C19. The grounds of Lawn House extend to about 4.8 ha of garden, a grass field and a wooded area. Two sides of the grounds share a boundary with the prison site, to the east and south. The distance from Lawn House to the nearest prison site boundary is about 115m and from the outbuildings of Lawn House the prison boundary is about 80m.

12.2.50 Lawn House had a historic association with the Hall. This secondary entrance into the Hall was removed at some time during the 20th century and as a result the immediate setting of Lawn House is relatively enclosed. The listed building is visually and physically separated from the prison complex by a large belt of parkland and mature vegetation, which effectively screens any views out from the listed building and adds to its semi-rural setting. The field within the appeal site that includes the ecological area and pond would be retained.

12.2.51 The site does not make a material contribution to the setting of the Grade II listed building given the distance from the asset and the lack of a functional relationship.

12.2.52 The access road would be situated at a distance of about 150m to the east of Lawn House. The proposed road and its associated infrastructure would weaken the historic relationship with the Hall, urbanising its setting to some extent. The proposed acoustic barrier would help to reduce the noise of the vehicles using the road and would be screened from view by the proposed vegetation.

12.2.53 The proposal would result in a low order of less than substantial harm to the heritage asset by virtue of the loss of some agricultural land that currently contributes to its setting, as well as the introduction of traffic into a currently tranquil "semi-isolated" location. [7.94]

Lower Farmhouse

12.2.54 Lower Farm is of historic interest as a row of former cottages dating from the early 18th century. Its architectural interest is derived from its use of historic vernacular building styles including the timber frame and arrangement of chequered bricks.

12.2.55 Lower Farmhouse is located approximately 150m north-west of the boundary of the appeal site from which it is separated by other buildings. The listed

building is experienced as part of a cluster of dwellings on the western side of Grendon Road and is set back within manicured private gardens, 20th century railings and an extensive brick paved parking area.

12.2.56 Lower Farmhouse has limited presence in the street scene due to the depth of the front garden and is separated from the appeal site by a main road and existing vegetation which obscures views eastwards towards the appeal site.

12.2.57 Ms Horton on behalf of the Council suggested that the significance of Lower Farm was derived from its architectural and rural setting. However, due to the domestication of the property over the years, I disagree. Due to its position on Grendon Road, and more recent development to the north and south, it clearly now forms part of the village of Edgcott and its significance is derived from its historic interest and architecture rather than its setting. [7.100]

12.2.58 There is potential for the increase in traffic associated with the proposed development to impact on significance. The proposals would have an operational effect of an additional 226 daily traffic flows in this part of Grendon Road, in addition to the projected 3,944 traffic trips predicted for 2025 without the development. The increase in traffic flows is around 6% on the daily average and would result in an increase of an average of 9 cars per hour. These additional movements are unlikely to cause a significant change in the character of the road or the significance of Lower Farmhouse. [6.39]

12.2.59 The Council is also concerned about the impact arising from light pollution and the change of character of North Park on views from Lower Farmhouse. However, due to the arrangement of the road and the intervening vegetation there would be no direct views between Lower Farmhouse and the access road. I therefore conclude that the proposed development would not harm the setting of Lower Farmhouse or impact on its significance.

Listed buildings in the vicinity of Perry Hill

12.2.60 The group of listed buildings is located within the village of Edgcott, approximately 450m to the north of the appeal site at the closest point. These include Grade II* St Michael's Church, Grade II listed Old Manor House, Grade II listed Old Manor Cottage, Grade II listed three barns at Manor Farm, Grade II Listed Lower Barn, Grade II Listed Upper Barn, Grade II Listed Rectory Barn, and Grade II Listed Rectory Farm.

12.2.61 These buildings have been grouped together as a result of their proximity and shared setting, in line with accepted best practice and for convenience since their settings, character and appearance all overlap to some degree. The group of listed buildings described as being in the vicinity of Perry Hill are situated on rising land facing towards the appeal site across a shallow dip in the landscape.

12.2.62 The Church of St Michael was constructed in the 12th century and comprises of a chancel with a more recent vestry on the north side, nave, and western tower. The plan of the present building is probably the result of the gradual rebuilding of the 12th-century church. The chancel was rebuilt during the middle of the 14th century. About a century later the nave was in turn partially rebuilt, and the west tower was added along with new windows,

doorways and roof. The church was restored in 1604 and again in 1875, when the north vestry was added by Sir George Gilbert Scott.

- 12.2.63 The group of listed buildings centred around the Church of St Michael (are inward looking and form an enclave. Although the Church and Old Manor Farm are visible in some views from public footpaths they are best appreciated and understood walking around the churchyard and the immediate vicinity.
- 12.2.64 The Council suggests that Grade II Old Manor Farm and Cottage and Grade II* St Michael's Church in particular have been sited to benefit from views and prominence within the local topography and open countryside setting surrounding Edgcott village, and therefore derive significance from their rural countryside setting.[7.103]
- 12.2.65 I agree that these buildings derive some significance from their countryside location and to a lesser extent to the views out across the landscape. There are already limited views of HMP Grendon and HMP Springhill prison from the churchyard looking south. I however agree with the appellant that the views from within the churchyard are not taken from natural vantage points, but from the edge of the churchyard close to the eastern elevation of Manor Farm. Thus, it is a fairly narrow viewpoint and not a location where visitors would generally choose to stand. Moreover, even this view is limited by the vegetation to the boundary.
- 12.2.66 In this view the most prominent building is the green gymnasium building which is a prominent feature on the horizon. The buildings to the east of this would be noticeable within views from the churchyard. Although they would be closer than the existing gymnasium building, they would be of a similar height and at a distance of about 0.5km. These buildings will be seen as part of an established prison complex and would appear similar to the existing prison buildings already seen as part of the skyline. The proposed planting would assist with mitigating these views.
- 12.2.67 The views from Old Manor Farm and Cottage would be similar, but less extensive due to the fact that they occupy lower ground. The group of listed buildings would continue to be experienced within their semi-rural context and the orientation of the buildings, along with their position off a main road contributes to a sense of enclosure. I conclude that whilst some of the proposed development would be visible in distant views, the rural setting of the St Michael's Church and Old Manor Farm and Cottage would remain and the significance of these assets would not be reduced as a consequence of the proposed development. [6.42,7.105]
- 12.2.68 The Council acknowledges that the remaining barns that have been converted to residential dwellings, benefit from some degree of screening from the appeal site, either due to existing built forms or tree and shrub

planting. It accepts that the appeal site doesn't contribute to the significance of these buildings.

12.2.69 The night-time view from the churchyard (Heritage View 4) shows that the proposed development would not increase the light coming from the prison in a way that would be perceptible or appreciable from the churchyard.

12.2.70 There was some debate at the Inquiry in respect of the location of view H5. During the course of my site visit I noted that it was located some distance to the north of the St Michaels Church and Old Manor Farm, and therefore it does not alter my view above.

12.2.71 Whilst there may be some visibility of the appeal scheme from this group of buildings within the vicinity of Perry Hill, I do not identify any harm to the ability to appreciate these assets, and their significance would be preserved.

Grendon Underwood Conservation Area and listed buildings

12.2.72 Grendon Underwood Conservation Area was designated in 1989 and is the subject of a Conservation Area Appraisal adopted in 2008.¹⁴⁸ The Conservation Area is located approximately 780m to the south of the appeal site at the closest point, but for the most part, including the area where the proposed buildings would be located, is considerably further away.

12.2.73 The village forms a straggling ribbon extending east-west for about one mile along Main Road and comprises five separate parcels of historic buildings that are separated by areas of 20 Century infill development. The Conservation Area Appraisal notes that "*The special character of this area is derived from the particularly fine appearance of the historic buildings, the magnificent stand of trees both in front of and opposite The Old Rectory and Church, along Edgcott Road, and the mature hedging around all the properties.*" The Conservation Appraisal also refers to occasional fine landscape views glimpsed between buildings to both north and south into the open countryside.

12.2.74 The setting of the conservation area is relatively enclosed due to the linear arrangement of the main street, interposing vegetation and the orientation of built form lining the street frontage. Views outwards from the Conservation Area are generally along the road with the occasional glimpsed view to the fields beyond. The appeal site lies a considerable distance to the north and does not have a functional or spatial relationship with the Conservation Area.

12.2.75 The appellant submitted four verified views to test the potential impacts on the Conservation Area, views 14, H1, H2 and H3.¹⁴⁹ These views show the appeal scheme would not be visible from within the main core of the Conservation Area. This reflects my observations at the time of my site visit. The character and appearance of the Conservation Area would be unaffected

¹⁴⁸ CD/I17

¹⁴⁹ CD/E6/Appendix 3

by the proposed development and there would be no impact on the setting of listed buildings within this area.

12.2.76 At the Inquiry Ms Horton submitted INQ 17. This indicates potential views from the Conservation Area towards the appeal site. I visited these locations during my site visit, including after dark, and I am satisfied that the proposed development would not impact on the Grendon Underwood Conservation Area.

12.2.77 I conclude that the character and appearance of the Conservation Area would be preserved.

Heritage assets in the wider landscape

12.2.78 The Council also raised concerns regarding the impact of development on heritage assets within the wider landscape. These concerns included night time views, particularly from Quainton Conservation Area, Waddesdon Conservation Area, Waddesdon Registered Park and Garden (Grade I), Waddesdon Manor, Wotton Underwood Conservation Area, Wooton Registered Park and Garden (Grade I), Wotton House (Grade I) and Luggershall Conservation Area.

12.2.79 The Council did not provide an assessment of the significance of these assets or the impact of the proposed development on them, other than generalised concerns regarding the loss of the agricultural setting and the possibility of lighting giving rise to harm. I have therefore relied on the Conservation Area appraisals, the appellant's evidence and the evidence from my visits to these locations.

12.2.80 *Quainton Conservation Area* was originally designated by Aylesbury District Council in 1972 and is the subject of a Conservation Area Appraisal dated 2015.¹⁵⁰ It covers the village of Quainton which lies approximately 5.5km to the east of the eastern boundary of the appeal site.

12.2.81 The conservation area is in two sections, covering the centre of the village with a mix of buildings ranging from the 13th to the 21st centuries centred around a village green and church, and a second area that includes the later 20th and 19th century development to the west.

12.2.82 The elevated position of Quainton affords it long views across the surrounding countryside glimpsed on the edges of the village and between properties. This landscape setting is an important element of its character and significance of the Conservation Area. The contrast of expansive and enclosed views is a striking and distinctive element of the village's character.

12.2.83 The appeal site lies a considerable distance to the west of the conservation area across an undulating landscape. It does not have a functional or spatial relationship with the conservation area. The ZTV prepared in support of the

¹⁵⁰ CD/I8

application shows that the proposals are not likely to be materially visible owing to the topography and intervening vegetation and settlements.

12.2.84 I conclude that the proposed development would preserve the character and appearance of the Quainton Conservation Area.

12.2.85 *Ludgershall Conservation Area* was designated in 1991. It is subject to a Conservation Area Appraisal which was adopted in December 2008.¹⁵¹ The conservation area covers the village of Ludgershall which occupies relatively flat arable farmland 4.5km to the southwest of the appeal site.

12.2.86 The village retains its typical rural Medieval shape and form, with properties surrounding a large central field system and with broad greens around its edges. The open areas are important elements of the village's character and appearance and reinforce its rural setting.

12.2.87 The tight enclosure along the roadsides provided by hedgerows, trees and the irregularly sited dwellings and farm buildings contrasts sharply with the wide-open areas of The Green. These two distinct and yet complementary elements of its character contribute to its picturesque quality.

12.2.88 The extended ZTV shows the appeal proposals are unlikely to be visible from the Conservation Area. Whilst there are limitations in relying on ZTV data, I consider that due to the distance between the appeal site and the conservation area there would be unlikely to be any intervisibility.

12.2.89 I conclude that the proposed development would preserve the character and appearance of the Lugershall Conservation Area.

12.2.90 *Waddesdon Registered Park and Garden (Grade I) and Waddesdon Conservation Area*. Waddesdon Registered Park and Garden (RPG) was designated in 1987 and comprises a late 19th country house (Grade I listed), surrounded by contemporary formal and informal gardens and an extensive park laid out by Elie Lainé. It lies approximately 7km to the south east of the appeal site.

12.2.91 Waddesdon Conservation Area was originally designated by Aylesbury Vale District Council in January 1990 and is the subject of a Conservation Area Appraisal which was adopted in July 2014.¹⁵² The setting of the RPG is largely rural and dotted with settlements and some mixed commercial enterprises.

12.2.92 The extended ZTV prepared as part of the LVIA evidence shows the visibility of the appeal scheme is likely to be extremely limited and not visible at all from within the majority of the RPG. Where the ZTV indicates there may be some visibility, the distance over which this is appreciated would limit any meaningful impact on the RPG and conservation area which are extensive and

¹⁵¹ CD/I11

¹⁵² CD/I9

focussed on the significant landscape design and concentration of assets contained therein.

12.2.93 I also noted some prominent non-agricultural uses within the closer setting of the site, namely the Westcott Commercial Park, which sever the park from its wider setting. I do not anticipate there to be any intervisibility and or harm arising from the appeal scheme. I note the National Trust, owners of the site, have raised no objection.

12.2.94 Due to separation distance the conservation area does not share a functional or spatial relationship with the appeal site and I am satisfied that the proposed development would not harm the significance of the RPG and would preserve the character and appearance of the Conservation Area.

12.2.95 *Wotton Registered Park and Garden (Grade I) and Wotton Underwood Conservation Area.* Wotton RPG was designated on 30 August 1987 and comprises a historic designed landscape surrounding an early 18th century country house. The garden is registered on account of its historic associations with the Grenville family.

12.2.96 The grounds were reputedly laid out by George London and Henry Wise with a formal parterre and a double elm avenue leading down to a lake. Fifty years later William Pitt the Elder and Capability Brown worked on the landscape, creating pleasure grounds with two lakes.

12.2.97 The Wotton Underwood Conservation Area was designated in 1990 and is subject to a Conservation Area Appraisal from 2008.¹⁵³ The focal point of the conservation area is the Grade I listed Wotton House and its extensively landscaped grounds. The designation takes in the village of Wotton Underwood, which is located about 5.8km to the south of the appeal site. The village of Wotton Underwood comprises of two main groupings of historic buildings connected by the tree lined lane leading to Wotton House. The Grade II* listed Church of All Saints provides the visual focus to the small settlement which is enhanced by the open parkland and the extensive backcloth of mature trees beyond. The conservation area is nuclear and centred around a small group of listed buildings which create an inward looking experience.

12.2.98 The appeal site is separated from Wooton by a distance of approximately 7km. The extended ZTV shows the likelihood of intervisibility to be low. The key views identified do not contain views of the existing prison. Moreover, the distance from the appeal site and the wooded nature of the field boundaries and lanes would restrict views out of the RPG. I conclude that the proposed development would not harm the significance of the RPG and would preserve the character and appearance of the Conservation Area.

12.2.99 Ms Horton's concerns with the impact on these wider assets included the impact of lighting on night-time views. In response to my questions Dr Miele explained that the appreciation of historic significance at night is materially harder and the corresponding effect of near-ground existing lighting/development much higher in terms of its masking effect. For this

¹⁵³ CD/I10

reason he considered that even if a person were able to see the lights of the new prison from these areas, the lights would not have a measurable effect on the appreciation of such views. I share this view.

Heritage conclusion

12.2.100 I have found that the proposal would fail to preserve the settings of Grendon Hall and Lawn House. In the terms of the Framework, the degree of harm to the significance of these assets would be towards the lower end of less than substantial harm. In accordance with paragraph 202 of the NPPF this harm should be weighed against the public benefits of the proposal.

12.2.101 The settings of the Grade II listed gates and piers, the Perry Hill buildings and the listed buildings within the Grendon Underwood Conservation Area would be preserved, as would Waddesdon RPG and Wooton RPG. The character and appearance of Grendon Underwood Conservation Area, Quanton Conservation Area, Ludgershall Conservation Area, Waddesdon Conservation Area, and Wooton Underwood Conservation Area would be preserved.

12.2.102 In terms of the North Park, a NDHA I found a moderate level of harm. This harm must be weighed in the overall planning balance having regard to the scale of any harm or loss and the significance of the heritage asset.

12.3 Landscape Impacts

12.3.1 Policy BE2 of the VALP requires new development to respect and complement the physical characteristics of the site and its surroundings including the scale and context of the site and its setting; the local distinctiveness and vernacular character of the locality; the natural qualities and features of the area and the effect on important public views and skylines.

12.3.2 Policy NE4 requires development to recognise the individual character and distinctiveness of particular landscape character areas set out in the Landscape Character Assessment, their sensitivity to change and contribution to a sense of place. It includes a number of specific criteria. Policy NE5 seeks to minimise pollution, including light and noise pollution.

12.3.3 The site is predominantly greenfield, comprising agricultural land and playing fields and parkland associated with the Grade II listed Grendon Hall. The appeal site occupies a north/south ridge line (Spring Hill) that slopes gently to the east and west from a high point that forms a ridge along a north-south axis through the proposed development and the existing prison site. The site is surrounded by open countryside except to the immediate south where it adjoins the existing prisons complex of HMP Grendon and HMP Springhill and the residential area of Spring Hill. The village of Edgcott is separated from the site by open fields. The surrounding area has a network of footpaths running

across it, most of which benefit from a significant landscape buffer between the prison and the footpath.

- 12.3.4 The appeal site and surrounding area are not subject to any national or local landscape designations or considered to comprise a valued landscape for the purposes of paragraph 174 (a) of the NPPF.
- 12.3.5 The proposed development would be much larger in scale than the existing prison in terms of its overall footprint and the height of the proposed buildings. The appeal proposal would introduce a number of buildings similar in height to the Green Building, but with a much larger footprint. The workshop would be 97.8m AOD, a very similar height to the Green Building, but would be four times larger. Numerous other buildings on the northern parcel would be above 95m AOD. The height of the proposed buildings is shown on MB Figures 10 and 11, and on the parameter plan (INQ 32).¹⁵⁴ [7.49,7.50]
- 12.3.6 The Council submits that the large buildings across both the northern and eastern parcels would be of a nearly uniform height, similar in height if not taller than the vast majority of pre-existing buildings, but with much larger footprints. It suggests that the design does not take account of the topography of the site and that the proposed development would read as flat site with tall buildings, rather than one sloping away from the central ridge. The Council considers that this change in scale would have the greatest impact on the landscape and views towards the appeal site. [7.50]
- 12.3.7 Some of the buildings in the central parcel would be similar in terms of overall height when the proposed changes in levels are taken into account. However, even in this area there would be some variation in height and scale, with the buildings towards the eastern part being up to 10 metres lower than the highest building, or the existing Green Building. The footprint of the proposed buildings, even on the western part of the central parcel where the highest buildings would be located, varies considerably. This is a matter that would be addressed at the reserved matter stage.
- 12.3.8 The accommodation blocks on the eastern parcel would be lower in height in terms of AOD than the buildings within the central parcel. Whilst the four easternmost accommodation blocks would be similar in height (varying by 0.9m) the other two blocks would be lower. Therefore, whilst I accept that the proposed development would be significantly greater in scale by comparison with the existing prisons, there would nonetheless be some variation in the scale and height of the buildings proposed across the site.
- 12.3.9 Both parties submitted extensive evidence as to the landscape and visual effects of the proposed development. Whilst I have been guided by those formal assessments, my conclusions are also informed by my observations during my site visits.
- 12.3.10 The parties agree that the LVIA which accompanied the application generally accords with the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) 3rd Edition (2013) although there are some areas of disagreement

¹⁵⁴ CD/F2 Appendices

with regard to the methodological approach.¹⁵⁵ These relate largely to the assessment of landscape character and susceptibility. The parties also agree that the location of the viewpoints set out in the LVIA were agreed as far as was practicable with the Council's Landscape Officer.

- 12.3.11 Grendon Underwood Parish Council was critical of the methodology used in the LVIA. On behalf of the Parish Council, Mr Spence criticised the visualisations prepared as part of the LVIA. He also raised a concern in relation to how 'transparent' the Pegasus work was in terms of explaining how the base photographs were taken. However, Mr Spence did not raise any specific issues in the photos or visualisations. His concern was not shared by the Council and I am satisfied that the visualisations provide sufficient information to assist the decision-maker in relation to the landscape and visualisation impacts of the proposed development. [6.56,8.57-8.66]

Landscape Impacts

- 12.3.12 The site is located within National Character Area 108. Upper Thames Clay Vales. Within the Aylesbury Vale Landscape Character Assessment it includes parts of two LCAs, LCA 7.1 Poundon - Charndon Settled Hills and LCA 7.4 Kingswood Wooded Farmland, and is adjacent to a third LCA 8.1 Marsh Gibbon Vale.¹⁵⁶ The existing prisons complex is located at the southern end of LCA 7.1, a line of linked low domed hills which form a small ridge across the surrounding lower farmland. LCA 7.4 which occupies the surrounding lower farmland, is described as predominantly pastoral with large areas of ancient woodland and has retained "*a slightly forgotten character.*"¹⁵⁷ Both LCA 7.1 and LCA 7.4 are assessed as being in good condition with moderate sensitivity. The guidelines for both LCA's are to conserve and reinforce landscape character.
- 12.3.13 Both parties assessed the landscape value of the site and its susceptibility to change in order to inform their conclusions in relation to landscape sensitivity and the magnitude of change. They agreed that LCA 7.1 and LCA 7.4 were in good condition and were of medium value.
- 12.3.14 The appellant assessed the landscape value of the site as low to medium, whereas the Council considered it to be of medium value using GLVIA Box 5.1. Ms Bolger, on behalf of the Council considered that this had been supplemented by TGN2/21. The fundamental difference between the assessments was the extent to which the historical and cultural interests were assessed. [7.59]
- 12.3.15 Whilst TGN2/21 provides greater detail in relation to non-designated landscapes, it is intended to be complementary to GLVIA3. In terms of cultural heritage it provides more detailed guidance than Box 5.1, however as

¹⁵⁵ CD/C13 paragraph 2.7

¹⁵⁶ CD/I6

¹⁵⁷

acknowledged by Ms Bolger Box 5.1 continues to provide an appropriate basis for assessment.¹⁵⁸

- 12.3.16 Ms Bolger's assessment included that the site is adjacent to the listed Grendon Hall and includes part of a non-designated heritage asset, the former parkland. Moreover, the ridge and furrow, noted as a key characteristic in the Landscape Character Assessments, is present in both the site and the immediate landscape. On this basis she attributed a medium/high value to cultural heritage. [7.59]
- 12.3.17 It is evident from Ms Machin's proof of evidence that she was aware of the need to take account of cultural heritage. Nonetheless, neither her Proof of evidence, nor the LVIA appear to take this into account in terms of landscape value. In her evidence in chief she stated that the landscape was not heavily influenced by cultural assets. However, at the Inquiry she stated that even if she had added a greater value to cultural heritage this would not have changed her overall view of landscape value – which remained low to medium. [6.61]
- 12.3.18 The area to the south of Grendon Hall reflects the pastoral landscape associated with the Hall and the ridge and furrow landscape also add a sense of time depth. However, the LCA does not reference Grendon Hall. Whilst I find that these elements do contribute to the landscape, I do not consider that in landscape terms they elevate it above medium quality.[6.62,6.63]
- 12.3.19 In terms of susceptibility to change the appellant concluded that the site had low to medium susceptibility to change, whereas the Council considered that it had medium to high susceptibility to change. The parties differed as to whether an assessment of susceptibility was required to have regard to "*the specific development proposed*" or whether, susceptibility should instead be assessed more broadly against just the "*nature*" or "*type*" of project. Ms Bolger had applied the former approach, Ms Machin the latter.
- 12.3.20 This matter was considered following a webinar held by the Landscape Institute's GLVIA Panel in December 2020. Question 41 as discussed in TIN (01/21) raises the same issue as to the correct approach to susceptibility. The response was that:
- "Susceptibility should consider the type of change (whether it be housing, a railway, warehouses, afforestation/deforestation, open storage, a wind farm, a grid connection etc.). This is because if the actual proposed development is considered, this then crosses over with the magnitude judgement (with potential for double counting)."* [6.66,6.67]
- 12.3.21 However, the response to question 27 was that assessments must be based on reasonable judgments and not divorced from reality. There is merit in the Council's argument that the scale of development and type of development should be taken into account. Although the Council used the analogy of a housing development, there would equally be a significant difference in scale

¹⁵⁸ CD/F2 paragraph 5.4.2

between different types and sizes of prison, as is evidenced by the differences between HMP Springhill and HMP Grendon. [7.67]

12.3.22 Although the TIN does not have the same status as a TGN, the fact that the responses to the webinar questions raising similar points would appear to pull in two different directions indicates that the matter is not clear cut. Based on a straightforward reading of paragraph 5.40 of GLVIA3, I consider that the scale of development should be taken into account when assessing susceptibility.

12.3.23 The Council was also critical of the failure of the LVIA to take account of the scale and extent of the proposed development and the failure to comply with landscape strategies and policies for the LCAs in which it is located. Paragraph 5.42 of GLVIA3 states that:

"Susceptibility to change means the ability of the landscape receptor to accommodate the proposed development without undue consequences for the maintenance of the baseline situation and / or the achievement of landscape planning policies and strategies." [7.54]

12.3.24 Paragraph 5.42 requires the assessment to be based on the baseline situation and /or the landscape policies and strategies. Whilst in the case of a designated landscape the failure of the LVIA to take account of the policies and strategies could be considered a significant omission, in the case of an undesignated landscape I consider that the wording is clearly and/or and therefore it is not essential. For this reason I am satisfied that the absence of references to policies and strategies within the LVIA does not reduce the weight to be given to its conclusions. I conclude that the site has a medium susceptibility to change.

12.3.25 Overall, I consider there would be moderate harm to the landscape character through the loss of the currently undeveloped fields. The loss of the buffer between the existing prisons and the nearby PRowS would change the largely tranquil and rural character of these walks to PRowS dominated by a large prison. The proposed access road that would sever the North Park and the loss of an area of ridge and furrow landscape would add to this harm.

Visual impacts

12.3.26 The Council had some concerns with the MoJ's assessment of visual impacts, but there was broad agreement that the most significant visual effects would be at Perry Hill, users of PRowS and users of Grendon Road. Both parties agree that the viewpoints at Appendix A of the Landscape SoCG are representative of views of the site for the purposes of visual impact assessment. The Council's main criticisms of the visual assessment were that visualisations did not show windows, the failure of the visualisations to show sky glow, and third, a glitch in the visualisation from Viewpoint 13. [6.58,6.59,7.71]

12.3.27 Although the application is in outline the absence of modelled windows would impact on how the proposed development is viewed, particularly at night time and in views from Perry Hill and the surrounding footpaths. The windows will have capacity for curtains and/or blinds and prison operational patterns would include lights out times. Although the Council suggested that those

using the public footpaths would also notice such lighting, I agree with the appellant that the viewpoints which would primarily be affected are the footpaths to the east and these are unlikely to be much accessed outside of daylight hours.

12.3.28 The Council also raised concerns about the effect of lighting on the wider environment, particularly during the night-time. I viewed Five Wells at night-time from the A509. Whilst the lighting was not as dominant as shown in the Council's evidence, the prison and the night-time lighting was nevertheless readily apparent within views and appeared as a continuation of the town in views from across the valley. Similar levels of lighting in relation to the proposed development would be potentially harmful to the surrounding landscape. [7.71]

12.3.29 At my visit to HMP Fosse Way I noted that the lighting on the tallest buildings (the accommodation blocks) was directed towards the entrances to the buildings and not the wider site or surrounding landscape. The appeal scheme would differ from Five Wells in that it would be more contained by the wider landscape. The lighting scheme would be a reserved matter and the impact of any lighting would need to be strictly controlled to limit impacts on biodiversity and the historic landscape. I carried out night time visits to the surrounding area and note that security lighting from the existing prison was not intrusive to the surrounding landscape. Whilst some buildings would be more prominent in views from the Perry Hill area I am not persuaded that the prison lighting would significantly harm the wider landscape. Although the lighting may be more noticeable from the footpaths closest to the appeal site, these are primarily recreational routes and are unlikely to be much used during the hours of darkness.

12.3.30 The MoJ also conceded that the vegetation shown for Year 15 at viewpoint 15 might be shown as more established than is likely, but Ms Machin assessed the effect on views from this location as major adverse. I agree that this assessment remains robust.

12.3.31 There is an extensive network of public footpaths in the vicinity of the appeal site and the surrounding area. During my visits I noted that those in the vicinity of Edgcott and Perry Hill in particular were well used. The main visual impacts identified by the parties were in relation to the users of the public footpaths. I have focussed my conclusions on the operational stage of development.[7.73]

12.3.32 Turning first to the views from Footpaths 11 and 17. At present, the prison buildings are noticeable within views, but these views are characterised by the open areas associated with HMP Springhill, such as the sports field and the boundary vegetation along the northern edge of the site (VP4, VP5 and VP17). These views would change significantly. As a consequence of the proposed development from VP4 and VP17 there would be close direct views of the car parking area and the entrance resource hub and other prison buildings beyond. The upper elevations of the proposed house blocks would also be visible above the roof lines of the built form in the foreground.

12.3.33 Whilst the retention of the existing vegetation and the proposed planting that forms part of the landscape strategy would provide some mitigation, the appellant concedes that mitigation alone is unlikely to materially reduce the

impact of the proposed development even at 15 years. From VP5 there would be close direct views of the proposed development including the house blocks. Although they would be set back from the boundary by way of a 15 metre wide landscaping buffer the scale of change would nevertheless be substantial. I agree with the parties that the visual effects of the proposed development from these viewpoints would be major adverse even at 15 years.

12.3.34 VP3 is the PRoW that runs from Lawn Hill northwards. There would be views of farm buildings in the foreground with the prison buildings beyond. These would be partially screened by the existing vegetation. Post-construction the prison buildings would occupy a greater segment of the view. The appellant acknowledges that the prison buildings and infrastructure would appear closer. The buildings would be set behind a 13-15 metre deep landscape buffer, but as acknowledged by Ms Machin would be remain moderate/major adverse even at 15 years.

12.3.35 Two additional viewpoints put forward on behalf of the Council (VP A and VP B) were not assessed as part of the LVIA. VPA is from Perry Hill from where the existing prison buildings are visible within the landscape. VPB is from footpath 11 north of Lawn Hill Farm. As with VP3 the existing and proposed vegetation would over time filter views of the proposed development but would not screen the upper parts of the building. The parties agree that the change would be major adverse. The main receptors would be motorists, since the narrow and winding nature of this road, together with the absence of footpaths, would discourage pedestrians.

Views from PRoWS to the east and south east.

12.3.36 From VP 18 there would be direct views of the proposed development set behind the field boundary vegetation and the proposed landscaping buffer. The proposed house blocks would be visible along the skyline and the proposed development would serve to extend the existing view of the prison buildings further north and east from this location. The appellant acknowledges that the change would be very substantial and the view would change to one where the proposed buildings and infrastructure would dominate the view and interrupt the skyline. It is also accepted by the MoJ that although the landscape strategy would provide some mitigation it would be unlikely to materially reduce the visual impact of the proposals. For this reason the Ms Machin found a major adverse impact from this location. I agree with this assessment.

12.3.37 VP7A is from bridleway 13. At present this viewpoint has a largely rural quality with Spring Hill and Mill Hill being the dominant features. From this location there would be views of the proposed house blocks that would extend the extent of the existing prison infrastructure. The MoJ describe the change as moderate adverse reducing to minor to moderate adverse at year 15. I consider this to be a fair assessment having regard to the intervening

distance, the height of the proposed buildings above AOD by comparison with the existing prison buildings and the mitigation provided by the landscaping.

Views from the PRowS to the South and Grendon Underwood

12.3.38 Footpath 17 extends from Grendon Underwood and up to and around the HMP Springhill. Therefore, the proposed prison would be seen in close proximity and would be dominant in views from this footpath. From VP 13 the appellant considers that the scale of change would be small since views are already dominated by the existing prisons and the Calvert landfill site in the wider landscape. The appellant concludes that the change is moderate adverse, whereas the Council consider it to be moderate/major adverse. I favour the appellant's assessment.

Views from the west

12.3.39 From Grendon Road and footpath 16 the new access road, the vehicular access, SuDS Pond and running track would be visible. Although these would be part of the prison development, due to the open nature of these features, and the retention of the existing vegetation, the existing separation between the prison development and Edgcott would be maintained. Views of this area are largely confined to the existing access road, but there are also views adjacent to the boundary with Grendon Road. In order to accommodate the football pitch the gently sloping landscape would change.

12.3.40 The submitted plans include an acoustic fence and lighting. However, as explained above, it is unclear based on the current evidence whether the fence is necessary. The lighting design would need to be submitted as part of the reserved matters for reasons of biodiversity. As discussed at the Inquiry and agreed by the parties, both of these matters could be reserved for determination pursuant to an appropriate condition. This would enable a more visually acceptable solution by comparison with what is currently shown on the submitted plans. Subject to these measures and having regard to the localised and limited nature of the view, I agree with the appellant, and I find that these changes would be moderate.[6.73]

12.3.41 The proposed development generally complies with Policy NE4 criterion a),b),e) and g) for the reasons set out by the appellant. In relation to NE4 c), the appellant acknowledges that this will depend on the Secretary of State's assessment of the landscape character and impact, but that question will be informed by the absence of any formal local or national landscape designation. [6.73.6.75]

12.3.42 As to NE4 d), the appellant suggests that the spacing, height, scale, plot shape and size, elevations, roofline and pitch, overall colour palette, texture and boundary treatment (walls, hedges, fences and gates) could be addressed at the reserved matter stage. Whilst this is true in respect of some matters, although this is an outline application, other matters such as spacing, height, scale, plot shape and size of the proposed development are unlikely to change much from the submitted outline proposals. Indeed, the accommodations blocks are identical to those proposed for other recent

prison development, including at HMP Fosse. I therefore conclude that there is only limited compliance with criterion d). [6.74]

- 12.3.43 Criterion f) requires that the development is not visually prominent in the landscape. The MoJ acknowledges that there could be some inconsistency with this policy and that the proposed development could be visually prominent from some viewpoints.
- 12.3.44 I conclude that there would be conflict with criteria c) d) and f) of policy NE4. Looked at in the round and having regard to the over-arching purpose of Policy NE4, I conclude that the proposed development would fail to comply with the policy overall.
- 12.3.45 In terms of lighting Policy NE5 sets out a number of criteria that need to be satisfied if planning permission is to be granted. Mr Thistlethwaite accepted that since lighting is now a matter for future determination the proposed development did not conflict with Policy NE5 in so far as it can be assessed at this outline stage.[6.72]
- 12.3.46 The Officer's Report found that there would be no conflict with Policy BE2 since the design of the building is driven by operational requirements. At the Inquiry Mr Thistlethwaite agreed with this position. [6.77]
- 12.3.47 Although the proposed development has been designed to minimise the impact on landscape character, it would nonetheless, harm the rural character of the surrounding landscape. It would also give rise to visual harm, particularly in views from the Perry Hill area and the surrounding PRow network identified above. The parties generally agree that this harm would be major adverse, although it would not harm medium or distant views. For these reasons the proposal would fail to comply with Policies NE4 of the VALP. There would also be some conflict with Policy BE2, however, it is acknowledged that this is due to the operational requirements of the proposed prison.

12.4 Transport

- 12.4.1 Subject to the mitigation secured by the agreed planning obligations the Council is satisfied that the proposed development would be acceptable in terms of its impact on the local highway network. I return to the concerns raised by Grendon Underwood Parish Council and local residents below.[6.9,8.24-8.35]
- 12.4.2 The main focus of the objection from Buckinghamshire Council concerns the extent to which staff and visitors would be able to use sustainable transport given the rural location of the appeal site. In order to address these concerns the MoJ proposes a number of mitigation measures, secured by planning obligations. These include the provision of cycle parking facilities, bus stop improvements, a financial contribution towards bus service improvements and a travel monitoring plan. The bus service improvements include a financial contribution of £485,000 to be used over a five year period. The contribution would be used to fund an additional service that would be suitable for use by staff working the main shift.
- 12.4.3 Policy S1 of the VALP requires proposals to comply with the principles of sustainable development set out in the NPPF and reflects the presumption in

favour of sustainable development within the NPPF. Paragraph h) of Policy S1 states that consideration will be given to providing high-quality accessibility through the implementation of sustainable modes of travel including public transport, walking and cycling. It also aims to minimise the need to travel reflecting paragraph 106 of the NPPF.

- 12.4.4 Policy T1 sets out the strategy for the delivery of sustainable transport in Aylesbury Vale. It encourages modal shift with the greater use of more sustainable forms of transport and improving the safety of all road users. It states that the Council will seek to ensure that development proposals will deliver highway and transport improvements so that the housing and employment development identified in the Local Plan does not create a severe impact on the highway and public transportation network. Although the prison development is not identified with the VALP, I nonetheless consider this to be a relevant policy.
- 12.4.5 The explanatory text states that the aim of the sustainable transport vision is to assist with creating development that is accessible by different modes of transport, especially walking and cycling and the use of public transport to reduce car dependency
- 12.4.6 The encouragement of sustainable transport is consistent with Section 9 of the NPPF. In particular paragraphs 104 and 110 aim to encourage opportunities for walking, cycling and public transport. Paragraph 105 states that significant development should be focused on locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport modes. It does however note that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 12.4.7 The Buckinghamshire Council Local Transport Plan 4 (BCLTP)¹⁵⁹ sets out a series of broad transport related objectives designed to support growth in Buckinghamshire to up to 2036.
- 12.4.8 Policy 3 of the BCLTP aims to manage the impact of new development and proposes a dedicated Development Management Policy to help developers to ensure that new development meets Buckinghamshire's needs. Policy 10 of the BCLTP seeks to improve and protect Buckinghamshire's countryside and environment. The measures proposed include promoting more sustainable transport choices.
- 12.4.9 The Council also submits that Policy S2 of the VALP, including Table 2, is relevant, although it was not referenced in the Council's decision. Policy S2 sets out the spatial strategy for the former Aylesbury Vale District. This includes focusing strategic growth and investment at Aylesbury, and other development at Buckingham, Winslow, Wendover and Haddenham supported by growth at other larger, medium and smaller villages. It also provides guidance on the location of new homes. The Council's view is that the settlement hierarchy at Table 2 of Policy S2 indicates that the site is within an

¹⁵⁹ CD/H9

unsustainable location and that this has been confirmed by three recent appeal decisions in the local area.¹⁶⁰ [7.109,7.110,7.111]

12.4.10 I do not share this view. Table 2 is clearly directed at residential development. Residential uses have a markedly different pattern of travel by comparison with employment and other uses. They generally involve multiple trips a day from each household, including, but not limited to, trips to work, education, shops, services, and entertainment. In contrast a trip to a place of employment generally involves a single trip each way. I therefore do not consider that the settlement hierarchy at Table 2 of Policy S2 is material to this decision. I acknowledge that it provides an indication of other transport services available, but neither Table 2, nor the appeal decisions referenced by the Council have regard to the transport improvements or the measures proposed in the Travel Plan, including the improvement to bus services, proposed by the appellant.

12.4.11 The application was accompanied by a Transport Assessment.¹⁶¹ This provides a summary of the relevant transport policy and a review of existing sustainable transport facilities, including pedestrian and cycle access, bus routes and nearby railway station facilities, although it is primarily focussed on the impacts on the surrounding highway network.

12.4.12 The Transport Assessment modelled behaviours based on the 2011 modal split for the former Aylesbury Vale District. In calculating the trip generation for the proposed development, the modal split has been modified by the removal of walking trips and the assumption that all staff working the evening shift and all visitors and legal visits would be made by car. The reason for this is to ensure that the assessment of effects on the local highway network in terms of capacity and safety are as robust as possible.

12.4.13 The methodology is set out at Appendix E of the Transport Assessment and is similar to that used in respect of other recent prison developments. The appellant proposes a number of measures to encourage the use of sustainable transport and reduce the number of overall car journeys. The fact that walking has not been included in the modal split within the Transport Assessment does not imply, as suggested by the Council and others, that no staff are anticipated to walk to work, it is simply a mechanism to ensure that the assessed highway impacts are as robust as possible.

Walking

12.4.14 The Aylesbury Vale Local Plan states that at a local level walking trips under two miles should be encouraged.¹⁶² Table 3.2 of the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' (2000) sets out acceptable maximum walk distances of 2km for commuting journeys.¹⁶³ In practice for those inclined to walk to work, I consider that a

¹⁶⁰ APP/J0405/W/17/3176173, APP/J0405/W/20/3255772 & APP/J0405/W/16/3185166 (CD/F1 Appendices A,B & C)

¹⁶¹ CD A/27

¹⁶² CD/I1 paragraph 7.20

¹⁶³ CD/J17

distance of 2 miles (3.22 km) would be towards the upper end of journey length. Edgcott and the westernmost part of Grendon Underwood come within the 2km, although much of Grendon Underwood would be closer to the 2 mile limit referred to in the VALP. In practice, given the distance of the appeal site from the surrounding residential areas I consider that few staff would live within walking distance of the site.

12.4.15 There is an unlit pedestrian footway along the southbound carriageway of Grendon Road and Edgcott Road, and an unlit pedestrian footway on Main Street, Grendon Underwood. These are separated from the carriageway by a mixture of hedgerow and grass verge between the footway and the carriageway. The Council suggested that this would make it unattractive to pedestrians. I disagree. I walked this route during my visits, and I found the separation from the carriageway and traffic added to its attractiveness. I also noted that the route was reasonably well used by local people.

12.4.16 In terms of walking, I find that although there is a suitable route linking the appeal site with the two nearest settlements, due to the low density of the population in the immediate area, few members of staff are likely to walk as their primary means of travel to work.

Cycling

12.4.17 The VALP states that cycling trips should be encouraged within a five-mile (8km) radius of new development.¹⁶⁴ This would include a number of local settlements such as Kingswood, Marsh Gibbon and Steeple Clayton. However, these routes are on-road without street lighting. There is no dedicated offroad cycle provision. The routes towards Calvert and Steeple Clayton are relatively steep and this would be likely to deter at least some cyclists. Cycle parking and other facilities, such as showers / changing facilities, and cycle purchase schemes are to be provided for the development which would encourage cycling. As with walking, due to the low population density, I consider that the proportion of staff cycling to work would remain low.

Bus

12.4.18 There are two bus stops located close to the entrance to the existing prisons. Served by the number 16 and number 17 services. The proposed prison would be about a 10 minute walk from these bus stops.

12.4.19 Bus service number 16 currently provides a service between Marsh Gibbon, Steeple Claydon, Edgcott, Springhill Prison Gates, Grendon Underwood, Waddesdon, and Aylesbury. It provides eight services per day (Monday – Friday) between Springhill Prison Gates and Aylesbury Bus Station, and six services on a Saturday. There are six services per day (Monday – Friday) and four services on a Saturday in the opposite direction. There is no Sunday service provision in either direction.

12.4.20 Bus service number 17 provides a service between Aylesbury and Bicester with an average service frequency of one service per hour Monday - Friday. However, only one service per day in either direction currently routes via

¹⁶⁴ CD/I1 paragraph 7.20

Springhill Prison Gates. There is currently no Saturday service which routes via Springhill Prison Gates, and no Sunday service provision along the entire route.

- 12.4.21 The Transport Assessment found that the existing bus services do not align with the shift patterns for staff and would not provide a suitable service for the morning and evening visiting periods. On this basis, in the absence of any improvements to the bus services, and on the basis of modes of transport used by staff at the existing prisons, it is likely that there would be an additional 19 arrivals per day by bus.
- 12.4.22 As set out above, the appellant proposes a financial contribution towards bus services for a period of five years. This would be secured by the UU. The Transport Assessment assessed the sustainable transport opportunities for both uniformed and non-uniformed staff as well as visitors. Improvements are proposed to maximise opportunities for bus travel especially for the 0800-1730 shift, which is the shift with the largest proportion of uniformed staff. Discussions with Red Rose, the bus company are on-going in order to agree how the bus contribution could be translated into specific service improvements. The aim is to provide an earlier and later service that would accommodate the main shift of uniformed staff. An indication as how this service is anticipated to operate is at appendix D of Mr Cartwright's evidence.
- 12.4.23 The Council does not accept that these improvements would make the site sustainable, and for this reason consider that the planning obligation would not meet the statutory tests. Both the Council and others are concerned that the bus service contribution is limited to a period of five years. I consider this to be a sufficiently long period to enable the viability of the proposed services to be assessed and the future of the service to be reviewed. [7.115,8.23]
- 12.4.24 The proposed enhancements to the bus service would provide a choice of means of transport for staff working at the proposed prison. It would also benefit at the two existing prisons. More widely, it would provide a connection for others within the District, particularly to those resident along the Aylesbury to Marsh Gibbon route. Although much of the discussion at the Inquiry focussed on journeys from Aylesbury to Bicester it may be the case that the proposed bus service would provide opportunities for residents in the settlements outside of these areas. The provision of this service further distinguishes the proposal from the appeals referenced by the Council.

Car

- 12.4.25 In addition to the proposals to encourage the use of sustainable transport, the appellant proposes other measures to reduce the environmental impact of private cars. These include the provision of 45 Electric Vehicle parking spaces with a minimum 3kw charging stations, and 23 car sharing spaces.
- 12.4.26 A minibus is used to transport prisoners Released On Temporary License to local areas to take part in paid or unpaid work. The appellant suggests that this could also be used to provide a shuttle bus for staff from the Bicester

area who would not benefit from the proposed improvements to the No 16 bus timetable.

12.4.27 The Council's view is that the reliance on the use of private cars is a consequence of the location of the appeal site. I agree that a town centre site may be more accessible by sustainable means of transport, however, even those sites within more accessible locations, are unlikely to be located within the town centre due to the physical requirements for new prisons, including the need for at least 12ha of land. In practice they are more likely to be located on the periphery of towns where the opportunities for sustainable transport may not be as great as suggested by the Council. No evidence was submitted to the Inquiry to indicate comparable modal splits for sites such as HMP Fosse Way or HMP Five Wells, which are both on the edge of existing towns or cities.

12.4.28 I consider that the situation is more nuanced. Regardless of the availability of public transport, movement of prisoners and the delivery of supplies would still be reliant on private motor transport. In addition, legal visits are likely to continue to be made by private motor vehicles, and staff working the early and late shifts are also more likely to use private vehicles (although they may benefit from car sharing and other initiatives proposed) as is reflected in the Transport Assessment. Therefore, the main potential for a reduction in journeys by private motor vehicles would be the main shift of uniformed and un-uniformed staff and visitors. On the basis of the Transport Assessment, the main uniformed shift and all of the non-uniformed staff, as well as visitors, amount to about 71% of total trips. Therefore the measures in the Transport plan, including the additional bus service have the potential to reduce the number of trips by road.[7.112]

12.4.29 The applicant has provided an Outline Travel Plan as part of this appeal proposal. This commits the proposed development to a minimum reduction of 10% in single occupancy vehicle journeys within the first five years of occupation. To achieve this reduction, the Outline Travel Plan sets out a range of measures for staff which are intended to encourage the uptake of sustainable travel and reduce single occupancy car journeys in accordance with National and Local Transport Policy. A £5,000 monitoring fee would be secured by the submitted planning obligation. These matters would be monitored by the Travel Plan Coordinator.

Overall Conclusion on Sustainable Transport

12.4.30 The proposed development would provide a genuine choice of transport modes and would comply with Policy T1 and paragraph 85 of the NPPF by improving the sustainability of the site. However, even taking account of the measures proposed within the Travel Plan, and the propensity of some staff and visitors to use public transport, I conclude that the site is not well located in terms of sustainable transport, and many staff and visitors would be reliant on the use of private cars. In this regard it would conflict with Policy S1 of the VALP and the NPPF.

Other Transport issues

12.4.31 In addition to the concerns regarding sustainable transport, local residents and Grendon Underwood Parish Council raised concerns about the impact of

the proposed development on the local highway network, including the robustness of the information that underpinned the Transport Assessment. In particular, Councillor Harper questioned the difference between the transport figure in a survey carried out by TfB and those used by the appellant in the Transport Assessment. As confirmed by the Highways SoCG these concerns are not shared by the Highway Authority subject to the agreed mitigation. [8.24,8.25,]

- 12.4.32 Due to Covid it was not possible to undertake robust traffic counts at the time the Transport Assessment was prepared. Therefore, as agreed with the Highway Authority, an appropriate traffic growth factor was applied to base historic data from EWR2 which was collected between 2015 and 2019. Although the Highway Authority considered that the construction works for both EWR2 and HS2 in this area will be completed by 2025, the construction traffic associated with both EWR2 and HS2 has been included in the baseline traffic flows used in the MoJ's traffic assessments.
- 12.4.33 The Transport Assessment shows that in 2025 with Development, 463 vehicles are forecast to pass through Edgcott during the AM peak. This is equivalent to 7.7 vehicles per minute. For the PM peak in 2025 with Development, 423 vehicles are forecast to pass through Edgcott. This is equivalent to 7.1 vehicles per minute. These figures are comparable with the TfB average of 435 during the AM peak and 362 during the evening peak. I therefore agree with the Highway Authority and the appellant that the figures used in the Transport Assessment are robust.¹⁶⁵
- 12.4.34 The Parish Council suggested that the traffic modelling was flawed in that it failed to consider that an equal amount of traffic may come through Edgcott. The distribution of traffic flows was agreed with the Highway Authority. The purpose of this was to consider the capacity of the existing junctions to accommodate the proposed development. On the basis of this modelling, it was found that the A41 / The Broadway junction currently operates over acceptable thresholds of capacity, and this would be exacerbated by the proposed prison and therefore mitigation was required. The agreed mitigation measures are secured by the s106 agreement, and I am satisfied that if planning permission is granted they would be delivered. No substantive evidence of the need for improvements elsewhere was submitted to the Inquiry.[8.31]
- 12.4.35 On behalf of Edgcott Parish Council, Councillor Harper stated that the Broadway junction with the A41 was recognised by local people as the most dangerous junction on this stretch of the A41. He also referred to the number of traffic accidents within the area surrounding the appeal site, including a number of fatalities on routes that serve the existing prison and would also be used by the proposed prison.[8.28,8.32]
- 12.4.36 There were differences in the data used by the Parish Council and that used by the appellant. The data used by the appellant reflected that available at the time the Transport Assessment was prepared. As set out in Mr Cartwright's note to the Inquiry, the difference between the appellant and the Parish Council are due to the timeframe used and the extent of the study

¹⁶⁵ INQ 4

area. Those accidents referred to by Councillor Harper that come within the study area and same timeframe are included in the Transport Assessment. [6.13]

12.4.37 The study area and time period used were agreed with the Highway Authority, and whilst Councillor Harper and the appellant differ as to the number of accidents. I am satisfied that the Transport Assessment does not significantly understate the number of accidents within the study area. Notwithstanding this, it is evident that there have been a number of accidents at the junction of the Broadway and the A41, most of which are classified as 'slight', although there was also one fatal accident. In the absence of any mitigation an increase in the number of vehicles using this junction may give rise to an increase in the number of accidents.[6.13]

12.4.38 The mitigation at this junction would be secured by the planning obligation and would include minor adjustments to the layout and localised widening along The Broadway; an extension to the existing dedicated right-turn bay along the A41; the introduction of high-friction surfacing and renewed carriageway lining; the removal of vegetation; and the introduction of advanced directional signage. These measures accord with the recommendations of an independent Road Safety Audit.¹⁶⁶

12.4.39 The Highway Authority accepts that the proposed development would not give rise to an unacceptable impact on highway safety or have a severe impact on the road network. On the basis of the submitted evidence I share this view and conclude that the proposed development would comply with paragraph 111 of the NPPF and policies T5 and T6 of the VALP.

12.5 The Need for the Proposed Prison

National Need for Prison Places

12.5.1 The Government announced in June 2020 that four more new prisons would be built across England over the next six years to meet the demand for places (these four are in addition to two pre-existing new prison projects, HMPs Five Wells and Fosse Way). The aim was to provide 20,000 prison places by the mid-2020s. To date around 3,120 of the places have been delivered, including 1,715 places at the new prison, HMP Five Wells.

12.5.2 The MoJ has projected a significant increase in the total prison population to 98,500 by March 2026. This has been modelled, in the context of the appeal, as giving rise to a projected 32,290 category C prisoners in need of a resettlement place by July 2026. Taking account of the consented supply as set out at INQ 21, there would be a national surplus of about 1000 places. These figures exclude the potential capacity at Garth and Wymott. [6.8,7.8]

12.5.3 The Council submits that this would mean a significant surplus of places for Category C prisoners and that many of the cells in the appeal scheme would be surplus to the identified need.[7.9]

12.5.4 The MoJ acknowledges that there would be a technical surplus, but considers this to be acceptable for a number of reasons. These include the need for

¹⁶⁶ CD/A27 Appendix H

additional capacity to facilitate maintenance and repairs; fluctuations in prisoner numbers; the potential that the modelling may underestimate the need for places; the consequences of insufficient capacity leading to the need to introduce emergency measures such as Operation Safeguard, and the consequences of overcrowding on prisoners' health and well-being, the number of Category C prisoners currently held in Category A or B prisons including the associated economic costs; and that it is reasonable to exceed the projected growth figure by a modest margin. [6.87]

- 12.5.5 Prison capacity is assessed in two ways by the Certified Normal Accommodation (CNA) and the operational capacity. The operational capacity of a prison is the total number of prisoners that an establishment can hold, considering control, security and the proper operation of the planned regime. In practice the 'in use' CNA may be lower than the operational capacity, particularly within older prisons, since it excludes those places not available for immediate use, such as damaged cells, cells affected by building works, and cells taken out of use due to staff shortages. In many instances the difference can be considerable.
- 12.5.6 For example, in October 2022 the in-use CNA for Brixton Prison was 509, but it had an operational capacity of 786 and a population of 746. There are a number of prisons where the prison population, although within the operational capacity, exceeds the in-use CNA by more than 40%. It is therefore reasonable that the number of planned prison places exceeds the actual number of places required in order to provide resilience, particularly given the number of older prisons where a higher proportion may be out of use at any one time.
- 12.5.7 The MoJ calculates demand for prison projections using a suite of modelling tools, covering criminal courts and offender management. Starting from projected volumes of completed court cases, two main components of the modelling suite are used to develop prison population projections – a custodial sentencing model and a prison population projection model. This is detailed in MoJ's 'Prison Population Projections 2021 to 2026' (CD/J6). As noted by the Garth and Wymott Inspector these have National Statistic Status.
- 12.5.8 The Council is critical of this modelling and points to the fact that the number of prisoners is substantially lower than the projections. The projection model is based on the latest available data from various sources including court proceedings and performance and sentencing data. It also takes account of the intention to recruit 23,400 additional Police Officers. The latest offender management statistics are used to model prison receptions and population data. Assumptions for modelling are agreed through consultation with policy and operational experts at MoJ, HMPPS, Home Office and Crown Prosecution Service. [6.87]
- 12.5.9 Whilst it is not uncommon for a model to have a margin of error, it would seem that the projections have consistently exceeded the prison population to a significant degree. Mr Smith, on behalf of the MoJ, suggested that this was a lag due to the impact of Covid and the Criminal barrister's strike. Notwithstanding the Council's concerns with the modelling, no alternative modelling or figure has been put forward, nor was any evidence submitted to

indicate that any particular input to the modelling was flawed. Therefore, given that the projections have National Statistics Status, and in the absence of any alternative figure, I consider that despite the inherent uncertainty with the modelling it nonetheless represents the best evidence available to the Inquiry. Notwithstanding this, due to the extent of the difference between the actual prison population and the projections, I consider that the projections are likely to represent the upper end of the need for prison places. [6.87,7.13-7.16]

12.5.10 I agree with the appellant that the consequences of operating at capacity or beyond capacity are serious, and as noted above, about 20% of prisoners are currently held in overcrowded cells. However, my understanding of the modelling is that it seeks to ensure that these matters, as well as the need for resilience, are addressed in the future. Similarly, I would expect the need for additional Category C places to be addressed by the modelling. There is no evidence to suggest that this is not the case.

12.5.11 The evidence submitted by Mr Smith, in his addendum, is that there would be a surplus of about 1,000 Category C places nationally, once those places that are projected to come online are available.¹⁶⁷ The evidence submitted to the Inquiry does not indicate that there is any uncertainty with any of the identified places. Whilst I appreciate that the modelling on which the prison population projections are based is uncertain, recent growth suggests that the national demand for Category C places is unlikely to exceed the current projection. The predicted places do not include the Garth and Wymott scheme, and if this were to be approved it would provide a further 1,715 places. However, there is little clear evidence to support the need for Category C places in excess of this need. On this basis I agree with the Council that the need for the additional accommodation provided by the appeal proposal is not justified on the basis of national need.

Regional need

12.5.12 The MoJ states that there is also a regional need for category C prisons. The proposed new prison at Grendon Springhill would be a Category C resettlement prison.

12.5.13 The probation service is divided into a number of regional areas. The appeal site lies within the south-central area, and for the purposes of assessing the demand for new prison places has been assessed together with the south west, London, Kent, Surrey and Sussex probation areas.

12.5.14 Within this area there are about 5,770 Category C Resettlement places for male prisoners and the modelled demand for places is forecast to rise to around 6,810 places by July 2026. The MoJ state that once the additional places due to come available by 2025 are taken into account there would remain a regional deficit of about 590 places. Although historically there has been an imbalance between the category of prisoners and the types of

¹⁶⁷ INQ 21

prisons in which they are held this would be expected to be reflected in the modelling. [6.88,7.23]

12.5.15 In addition to the overall demand for Category C places within the region, as of December 2022 there were around 2,060 Category C men with less than 24 months of their sentence remaining, who had an origin address in the four probation regions the prison would serve but were being held elsewhere. This is the cohort (Category C resettlement) who would be held in the new prison since the Government seeks to hold these prisoners in or close to their home region. [6.88]

12.5.16 The MoJ cites the importance of meeting the need for these prisoners for a place in the southern region in order that they can benefit from contact with their families, reflecting the findings of the Farmer Report.[6.89]

12.5.17 The Council questions the regional need for 590 places, which it claimed was not supported by any of the documents before the Inquiry. Mr Smith confirmed that this figure was derived from applying the national prison projections to the Category C prisons in the region, which for the reasons above represents the best evidence available to the Inquiry. The Council also submits that even on the basis of the modelling the proposed development would greatly exceed the 590 places indicated. [7.23,7.24]

12.5.18 The Council also considers that the need to relocate category C prisoners living outside of the region is not justified by the evidence. Given the scale of and extent of the region and the fact that the appeal site is located towards the northern boundary of the region, the scenario outlined by the Council, namely that a prisoner could be kept outside of the region in which they live but could be closer to their families than if held within the region, is entirely feasible. Similarly, a prisoner from Cornwall kept at the proposed prison, would be within the correct region although they may be more than 250 miles from their family. There was insufficient evidence submitted to the Inquiry to understand the extent to which the additional Category C places proposed at this location this would be beneficial to Category C prisoners currently held outside of the region.[7.29]

12.5.19 The need for Category C resettlement places to enable prisoners to be held close to their families is derived from the Farmer Report. This found that re-offending is significantly reduced for prisoners who receive family visits by comparison with those who do not. However, the evidence to show the extent to which the proposed prison would facilitate such visits was not submitted to the Inquiry, and therefore I am unable to conclude that this benefit would be realised. If, due to the size of the region on which the need has been assessed, prisoners continued to be held at distances remote from their families the benefits set out in the Farmer Report would not be realised. [6.89,7.28].

12.5.20 Overall, there is potential need for at about 590 Category C places within the region as a whole. The proposed development would help to meet this need, but would also deliver a significant surplus. Whilst this surplus may assist

with the relocation of prisoners from outside of the region, there is simply insufficient evidence to demonstrate that this would be the case.

- 12.5.21 The Council submits that there is an imbalance between the northern and southern regions of the Country and that this could be addressed through managerial and organisational initiatives. Again, insufficient evidence was submitted to indicate those areas and regions with excess capacity and those where additional capacity was required. I therefore am unable to endorse the Council's view.

Other benefits of the prison

- 12.5.22 In addition to the quantitative need for additional prison spaces, the proposed prison has been designed to improve prisoner outcomes, including reductions in re-offending and increased well-being. It would also be more family friendly and therefore conducive to family visits, better meet the needs of an aging prison population and would be more environmentally sustainable. These would be significant social and environmental benefits and would accord with the principles within the Farmer Report. [6.90,6.91,6.92]
- 12.5.23 Overall I find that the national need for Category C places has not been demonstrated. On the basis of the evidence submitted to the Inquiry the number of places to be delivered by the proposed development would significantly exceed the identified need for the southern region. Given the surplus of spaces nationally, there is insufficient evidence to support a prison of the scale proposed. However, having regard to the environmental and social benefits of the new prison in terms of improved prisoner outcomes, and the regional need for some Category C places I accord moderate weight to the need for the prison.

12.6 Sports provision

- 12.6.1 HMP Springhill benefits from a large gymnasium, an outdoor gym, a running track and a football pitch. It is proposed to use the area currently occupied by the football pitch and running track, as well as some of the outdoor gym equipment to provide car parking. The football pitch would be relocated to the western part of the site and the running track and outdoor gym equipment would be re-provided in the same area.
- 12.6.2 Amongst other matters, Policy I2 of the VALP set out criteria against which proposals involving the loss of existing sports and recreation facilities will be assessed. The parties agree that criterion h) is the one most relevant to the appeal proposal. This requires the sports and recreation facilities to be lost to be replaced by equivalent or better provision in terms of quality and quantity in a suitable location.
- 12.6.3 Paragraph 99 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on other than in specified circumstances. These include where they would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
- 12.6.4 Sport England is a statutory consultee in respect of planning applications which involve the loss of playing fields. *Playing Fields Policy and Guidance*

2018 informs the assessment of proposals that affect playing fields.¹⁶⁸ Sport England opposes the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of all or any part of a playing field, unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.

- 12.6.5 The exception most relevant to the appeal proposal is exception 4. This requires the area of playing field to be lost to be replaced by a new area of playing field of equivalent or better quality, and of equivalent or greater quantity, and in a suitable location, and subject to equivalent or better accessibility and management arrangements.
- 12.6.6 On the basis of historical aerial photographs Sport England suggest that in addition to the existing pitch there is evidence of informal or training activity in the northernmost section of the playing field as indicated by the presence of an additional set of goalposts. It also considers that the site may have been used for cricket in the past. Due to the size of the area in which the pitch is located Sport England is of the view that there is flexibility to move pitches around and to reconfigure pitches to alleviate the wear and tear on the most heavily used areas such as goalmouths and centre circles. [7.133]
- 12.6.7 Allowing for the sloping nature of the site Sport England and the Council consider that the useable area of playing field is just over 2 ha in area, whereas the replacement pitch would be about 0.75 ha in area. They are of the view that the reduction in size would limit the alternative uses to which the pitch could be put. Aerial photographs submitted by the MoJ indicate that the pitch has not been used other than as a single adult football pitch since 2003.¹⁶⁹ Sport England did not submit any evidence to the contrary. Nor is there any evidence to indicate that it had ever been orientated differently to at present. At the Inquiry Mr Neal, on behalf of Sport England, confirmed that he had not visited the appeal site. [6.84,7.130]
- 12.6.8 The proposed replacement pitch would comply with current Sport England guidance for 'seniors' and includes the required run-off area. The overall playing area would be marginally larger than the existing large pitch at HMP Springhill. (0.74ha compared to 0.65ha). The playing pitch would be purpose built with bespoke drainage. This could be secured by way of a suitably worded condition. Evidence from the MoJ states that the pitch is used by staff, prisoners and others who have been security cleared. I was informed at the Inquiry that the existing adult pitch is not heavily used by prisoners at HMP Springhill with a preference by prisoners for other forms of physical activity during their allotted 2.5 hours of weekly exercise. This would reflect my observations at the time of my visit to the site and the footpaths in the immediate vicinity where I noted that the running track appeared to be used more regularly than the football pitch. [6.83]
- 12.6.9 The MoJ acknowledges that a small side pitch adjacent to the existing adult pitch would be lost, although this has not been used for a number of years. Although Sport England suggested that this could be mitigated by a contribution to local community facilities, such a contribution would not meet

¹⁶⁸ CD/H15

¹⁶⁹ CD/E1 figs 2, 3, 4, 5 and 6

the statutory tests within the CIL Regulations, since the local community do not benefit from the use of prison facilities.

12.6.10 Mr Neal stated that even if the entire area was not used for football it nevertheless formed part of the playing pitch and therefore should be replaced. This observation as to the extent of the playing pitch was made without the benefit of a visit to the site. Based on the submitted evidence, it would seem that for many years there has only been a single pitch, a running track and some outdoor gym equipment. All of these would be replaced within the western parcel. Therefore there would be similar provision in terms of facilities and the quality could be secured by way of a condition.

12.6.11 There would be some reduction in quantum by comparison with the area occupied by the existing playing pitch. Evidence submitted by the MoJ, and my own observations at the time of my visits, confirm that there are issues with the quality of the existing pitch. The proposed replacement facilities would provide an equivalent playing area with the potential for better drainage. Overall, I am satisfied that the proposed replacement sports facilities would deliver an equivalent or better provision for prisoners and staff and looked at in the round the proposed development would comply with Policy I2 and paragraph 99 of the NPPF.

12.7 Benefits of the Proposed Development

12.7.1 The appellant put forward a number of economic and social benefits of the proposal. These include direct and indirect impacts during the construction phase.

12.7.2 There are Key Performance Indicators (KPI) in place in relation to local spend associated with the construction phase. The KPI sets a target of 20% spend within 25 miles, 40% within 50 miles and 75% within 100 miles. Contractors would be required to provide a social value strategy and action plan to promote the achievement of social value targets and to deliver a monthly KPI report demonstrating progress against targets. Contractors would be contractually obliged to report against the targets and if they believe they will not achieve the target they must submit proposals for improving performance.[6.104]

12.7.3 The appointed contractor for the new prison would be contractually obliged to meet the following key performance targets:

- (1) 20% of construction spend within 25 miles of the site (which could amount to around £50million).
- (2) 25% employment within 50 miles of the site.
- (3) 50 construction jobs given to former prisoners or those near release.
- (4) £50,000 spend with Voluntary, Community and Social Enterprises.
- (5) 1 community project per year.
- (6) Targeted events, such as job fairs and school visits.
- (7) 1,750 Work placement days.
- (8) 50 new apprentice opportunities

These benefits have been compared with those delivered during the recent construction of HMP Fosse Way and HMP Five Wells, both of which have exceeded the targets outlined above.¹⁷⁰[6.104]

Economic Benefits

- 12.7.4 During the operational phase the appellant submits that there would be 550 jobs on site.¹⁷¹ Of these, it is suggested that between 234 (42.6%) and 313 (56.9%) could be taken by people living in the former Aylesbury Vale local authority area, and that the median salary would be higher than the gross median annual salary for a full-time worker across all sectors in the South East.¹⁷² In addition, it is submitted that there would be 256 indirect jobs created by the proposal. [6.103]
- 12.7.5 The Council considers that these benefits are overstated and rely on the findings of the Mace Report, which in turn relies on the data within the Peter Brett Associates Report '*Economic Impact of a New Prison*' which fails to have regard to local socio-economic factors.¹⁷³ In addition, The Council considers that the Peter Brett Report is not representative of the appeal scheme since it discounts the only rural prison in the study. [7.119,7.120]
- 12.7.6 It is evident from the Mace Report that although it takes account of the Peter Brett Report, amongst other sources, to assess the socio-economic benefits, it also draws on more recent data, and takes account of contextual differences, inflation and additionality, including evidence from other recent prison projects.¹⁷⁴ Mr Cook's evidence on behalf of the MoJ also relied on the specific development proposed and took account of the current salaries and employment rates within the local area.¹⁷⁵[7.120]
- 12.7.7 The Council, Parish Council and local residents question the ability of the proposed prison to meet its staffing needs due to staff recruitment and retention issues in general, the proximity of other prisons and the low unemployment rates within Aylesbury. They submit that that if there are insufficient staff to operate the prison, then the claimed economic and social benefits would not be realised. It was also suggested by the Council, Greg Smith MP and residents that given the HS2 and EWR projects it would be difficult to find the construction workers needed for the project. [7.121,7.122,8.5, 8.17,8.20]
- 12.7.8 Although no details on the level of economic activity were submitted to the Inquiry, the proportion of claimants within Aylesbury Vale is lower than for other areas in the south east and the country as a whole. I nevertheless note that the percentage of claimants within Buckinghamshire and Aylesbury Vale

¹⁷⁰ CD/E4 Table 3.1 page 11

¹⁷¹ CD/E4 paragraph 3.7

¹⁷² CD/E4 paragraphs 3.14 & 3.15

¹⁷³ CD/A25 & CD/J1

¹⁷⁴ CD/A25 Executive Summary

¹⁷⁵ CD/E4 Section 3

between 2019 and 2022 has increased to greater extent than other areas and now exceeds that for the south east and the country as a whole.¹⁷⁶

- 12.7.9 While Aylesbury Vale's labour market has performed well in recent years, it has a high net outflow of commuters. This suggests that people who live in the area will often be working in other areas. Based on the 2011 Census, Aylesbury Vale has a net commuting outflow of 15,385 people. Whilst this is likely to have changed as a consequence of the impact of Covid-19 on commuting patterns, it nevertheless indicates a need for additional employment within Aylesbury Vale.
- 12.7.10 Buckinghamshire also has an ageing population, which makes it important that new jobs are created to attract people of working age to the area and to retain existing working age residents. The proposed development would support long-term sustainable growth in the area, which is an important component of the adopted Aylesbury Vale Local Plan.
- 12.7.11 The socio-economic benefits were assessed for an area within a 40 mile radius of the prison, and only limited information was available in relation to employment rates or other economic matters within this wider area. Nonetheless I consider it reasonable to assume that many of the economic benefits of the proposed development would extend to a much wider geographical area. This is fairly recognised in the Mace Report and Mr Cook's evidence.¹⁷⁷ For HMP Grendon and HMP Springhill, 42.6% of staff were living in the former Aylesbury Vale area, compared to 56.9% at HMP Aylesbury and 44.5% at HMP Bullingdon (within Cherwell). The MoJ suggests that between 42.6% and 56.9% of staff working at the new prison would be likely to live in the former Aylesbury Vale District. In the absence of any evidence to the contrary This would appear to be a reasonable assumption and would add to the considerable economic benefits provided by the proposal.
- 12.7.12 Whilst the higher employment levels and salaries in Aylesbury Vale may mean the economic benefits would be spread over a wider area, there is no reason to assume that they would not be realised. During both the construction and operational phases there would be a need for a specific number of staff since this would be directly related to the size of the proposed prison. There may be some impact on the local spend and indirect jobs during construction and operation, but even if the economic benefits are found to be less than the modelled results, they would nevertheless be significant. Moreover, the KPI sets out the contractual benefits that the project must deliver. This would ensure a minimum level of employment, training and spend within the area.
- 12.7.13 The Council also suggest that the construction and operational benefits are not linked to this particular site and would arise anywhere that a new prison would be located. Whilst I agree with this view it does not diminish the economic benefits that would arise from this scheme. The fact that other

¹⁷⁶ CD/E4 table 2.1

¹⁷⁷ CD/E4 paragraphs 3.11 -3.14

recently constructed prisons have exceeded these KPI adds weight to this view. [6.107,7.128]

12.7.14 There would also be economic benefits from energy savings due to the proposed prison being more energy efficient than the older prisons.

Social benefits

12.7.15 The MoJ considers the proposed development would meet the imperative need for new prison places both nationally and regionally. I have found above that the national need for additional prison places is not supported by the evidence, and whilst there is a regional need, on the basis of the current evidence this would appear to be considerably lower than the number of places proposed. I therefore give the need for additional regional category C places moderate weight. [6.98]

12.7.16 The proposed prison would also provide benefits in terms of the standard of accommodation and facilities for staff and prisoners. It is not disputed by any party that the proposal would deliver safe, secure and modern facilities. The design is informed by academic research studies as to features which best contribute to successful rehabilitation and reoffending reduction and there is no good reason as to why such outcomes would not be achieved. In the Garth and Wymott 'minded to' letter the Secretary of State agreed with the Inspector that the greater social benefits for prisoners secured by a new prison should be given significant weight. [6.99,6.100]

12.7.17 There is potential for a Category C resettlement prison to provide improved outcomes for prisoners by maintaining contact with their families as supported by the Farmer Report. However, for the reasons given above, there is insufficient information for me to conclude that this would be a significant benefit of the proposed development.

Environmental Benefits

12.7.18 The proposal would comply with the MoJ's sustainability policy which contains a commitment to delivering BREAMM ratings above current policy requirements. It would contribute to delivering a 90% reduction in carbon emissions and a 70% reduction in energy use when compared to HMP Five Wells. [6.111]

12.7.19 A 14% BNG would be achieved on the basis of the up-to-date illustrative landscape masterplan. Whilst this may be subject to change at reserved matters stage, any significant change is unlikely given that the layout would be fixed at outline stage and on the basis that there is already significant agreement as to the proposed landscaping scheme. [6.78,6.79]

12.7.20 The proposed development would also provide some transport benefits for the wider community through the safety improvements at the Broadway / A41 junction and the improvements to the bus service that would be secured by the UU. [6.113]

12.8 Alternative Sites

12.8.1 The MoJ outlined the process that led to the selection of the appeal site. The process took account of a range of criteria in relation to site suitability, land

use acceptability and public value for money. Although criticism from the Council and third parties suggested that only existing sites owned by the MoJ were considered, the evidence from the MoJ refutes this and states that both private and public sites were considered. [6.94,7.38,7.39,8.17,8.21]

- 12.8.2 The full list of criteria is set out at Annex A of Mr Smith's evidence.¹⁷⁸ It is evident that the site does not meet the secondary requirements in that the site is not flat and some levelling would be required in all three parcels. Nor does the site benefit from good strategic access to public transport. The site also fails to meet a number of the tertiary requirements. In particular it is not a brownfield site, and is in an area where recruitment may be challenging. [6.95, 7.38, 8.21, 8.39]
- 12.8.3 I have no reason to doubt of Mr Smith's evidence to the Inquiry, including n Annex A of his proof. This evidence strongly suggests that that there are few, if any, alternatives to the appeal site in the southern region. This matter attracts moderate positive weight. The purpose of the criteria is to ensure that the site meets most of the MoJ'S mandatory requirements, and many of the tertiary and secondary requirements. No persuasive evidence has been submitted to suggest that the proposed development could not be built or would be unsuited for the proposed use. Even if alternative sites were available the fact that this site does not meet all of the MoJ criteria would not justify dismissal of the appeal.

12.9 Recruitment Issues

- 12.9.1 The Council and numerous other parties referred to the difficulties with the recruitment of staff. The factors influencing this are the general recruitment difficulties within the prison service, the number of other prisons within a 40 mile radius and the low unemployment rates within Aylesbury Vale. [7.121, 8.17,8.20,8.26,8.43,8.52]
- 12.9.2 Mr Hayes provided detailed evidence based on his experience of working in the prison service for many years. On the basis of his evidence and other evidence submitted to the Inquiry, it is apparent that there are recruitment issues both nationally and at a number of other nearby prisons. There is also evidence to suggest that recruitment may be a wider issue within Buckinghamshire, although the high level of out-commuting within the area is also noted. [8.46 – 8.53]
- 12.9.3 It is apparent from the recent MoJ initiatives such as 'Advance into Justice' and 'National First Posting Relocation Campaign' that these are national local rather than local issues. The evidence considered by the Garth and Wymott Inspector supports this view.¹⁷⁹
- 12.9.4 Mr Hayes raised concerns that the proposed development may draw staff from other prisons nearby. There are 10 other prisons within a 40 mile radius of the appeal site and I agree that it is probable the proposed prison would compete with these for staff.¹⁸⁰ However, the situation is reflective of

¹⁷⁸ CD/E2

¹⁷⁹ INQ7 paragraph 13.70

¹⁸⁰ INQ 27

national recruitment difficulties due to other factors. The evidence does not demonstrate that the position is significantly worse in the Aylesbury Vale area by comparison with other parts of the country. Moreover, recruitment is an issue for the MoJ to address and go beyond the scope of this appeal. It does not represent a reason for refusing planning permission. [6.114]

12.10 Other Matters

12.10.1 Mr Copsey raised concerns about surface water crossing his land. The Flood Risk Assessment identifies some areas within the site, where there is a tendency to surface water flooding. These are retained under the illustrative landscape masterplan as amenity grassland or woodland planting. The Local Lead Flood Authority has confirmed that the overall risk is low. Having regard to the Flood Risk Assessment I am satisfied that the proposed development would not increase flood risk on the site or elsewhere. [6.116-6.118]

12.10.2 Mr Copsey also raised a concern about a historic pollution event. The appellant has found no record of any pollution incidents having been reported to the Environment Agency at or near to the site. A Combined Geotechnical and Ground Contamination Risk Assessment was submitted with the application and, subject to the imposition of appropriate conditions, no concerns have been raised by the Council's Strategic Environmental Protection team. [6.119]

12.10.3 The Council agrees that the integrity and connectivity of the PRoW network would be maintained and that that there would be compliance with Policy C4. There would need to be a diversion order for the existing PRoWs through the site. No objection has been received from the Council's PRoW officer.

12.10.4 Both main parties agree that there would be some limited conflict with VALP policy NE7, due to it not being confirmed that the western parcel of the site does not contain best and most versatile agricultural land (Grade 3a). [6.121, 6.122]

12.10.5 A Minerals Assessment has now been submitted. It is agreed there is no conflict with Policy 1 of the Buckinghamshire Minerals and Waste Local Plan (mineral safeguarding).

12.11 Planning Balance

12.11.1 For the reasons I have already given the proposed development would harm the setting of Grendon Hall and Lawn House, both designated heritage assets. Whilst this harm would be towards the lower end of the scale, I nonetheless find that the proposal would fail to preserve the setting of these listed buildings. Consequently, I give this harm considerable importance and great weight in the planning balance of these appeals.

12.11.2 Paragraph 199 of the NPPF makes clear that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

12.11.3 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 202 states that the harm should be weighed against the public benefits of the proposal. I have

found above that the proposal would provide significant economic benefits in terms of job creation and spend within the local area. I have had regard to the views of the Council and other parties that suggest that these benefits would not be realised due to the low level of unemployment within the area and the difficulties in recruiting prison and other staff. However, for the reasons given above, should the proposed prison be developed I consider that the economic benefits put forward by the appellant would largely be realised. I accord these economic benefits significant weight.

- 12.11.4 The proposed development would also deliver social benefits, including the provision of a modern prison designed to improve prisoner outcomes and reduce the risk of re-offending. The proposed prison would also provide more family friendly places for visitors that would be beneficial to prisoner families, particularly children. The KPIs would ensure benefits in terms of training for prisoners near the end of their sentence, a £50,000 spend with Voluntary, Community and Social Enterprises, 1 community project per year, 1,750 Work placement day and 50 new apprentice opportunities. I accord these social benefits significant weight. Although the MoJ suggest that there would be further social benefits from placing prisoners closer to their families, as explained above, there is insufficient information to enable me to conclude that this would be the case.
- 12.11.5 The proposed development would contribute to the regional need for Category C places and this would be a benefit of the proposal to which I accord moderate weight. The delivery of a 14% BNG would be a further benefit of the proposed development. The prison would be built to a high standard of sustainability, with reductions in carbon emissions, and 70% reduction in energy use by comparison with the recently completed Five Wells Prison. I accept that this would be the case for any new prison in the current prison building programme, but it would nevertheless be a benefit of the proposed development and I accord it moderate weight.
- 12.11.6 In my view, these public benefits taken together are sufficient to outweigh the harm to the significance and setting of Grendon Hall and Lawn House. The proposed development would therefore accord with the Historic Environment Policies of the NPPF.
- 12.11.7 The appeal proposal would conflict with VALP Policies NE4 which requires development to recognise the individual character and distinctiveness of particular landscape character areas, and BE2 in respect of the design of new development. There would also be some conflict with Policy S1, in that the proposed development would not minimise the need to travel and does not use brownfield land. It would, however, be consistent with policy T1 that seeks to encourage sustainable transport, and policy I2 in relation to replacement sports facilities. It would also comply with policy NE1 in terms of biodiversity.
- 12.11.8 Whilst the proposed development would comply with national and local planning policy in so far as it would maximise the opportunities for sustainable transport, the location of the proposed prison is not sustainable. As acknowledged by the appellant the majority of journeys would be by private vehicles. Moreover, the journeys by families and other visitors could involve considerable distances. This would be contrary to the environmental

aim of the NPPF and VALP Policy S1. I conclude that the proposed development would fail to comply with the development plan as a whole.

12.11.9 There would be harm to the character and appearance of the landscape, and although the area affected would be relatively localised the parties agree that it would have a major adverse effect on visual receptors. I afford this harm substantial weight. The proposed development would also give rise to moderate harm to North Park, a NDHA.

12.11.10 On the basis of the evidence submitted to the Inquiry the national need for the proposed prison to meet projected increases in prisoner numbers is not substantiated. However, this does not detract from the social benefits of the proposed prison as set out above. There is evidence of a regional need for category C prison places, although the proposed development would exceed this need. For the reasons explained above I afford this need moderate weight, since on the basis of the submitted evidence, I cannot be certain that it would deliver the benefits sought by the Farmer Report in terms of locating prisoners close to their families. I also afford moderate weight to the absence of suitable of alternative sites.

12.11.11 Section 38(6) of the Planning and Compulsory Purchase Act requires decisions to be taken in accordance with the development plan unless material considerations indicate otherwise. In this instance, subject to the mitigation measures, including the additional bus service, I find that the benefits of the proposed development, together with the absence of an alternative site, justify a decision other than in accordance with the development plan.

13.0 Recommendation

13.1 I recommend that the appeal should be allowed, and planning permission granted subject to the attached Schedule of conditions and the planning obligations in the Planning Agreement and the UU.

Lesley Coffey

PLANNING INSPECTOR

Appendix A

AppearancesFor the Appellant

Jenny Wigley KC and Matthew Dale-Harris, of Counsel,
instructed by Helen Robinson, Managing Associate at Womble Bond Dickinson

They called:

Ms Katie Machin, BSc PGDip CMLI	Landscape and Visual Effects Pegasus Group
Dr Chris Miele, IHBC MRTPI	Heritage Montagu Evans LLP
Mr Duncan Cartwright, MEng MCIHT	Transport Atkins Ltd
Mr Richard Cook, BA (Hons) MA	Socio-Economic Pegasus Group
Mr Matt Neale, BSc (Hons) MSc CEng MCIEEM	Ecology Ramboll UK Limited
Mr James Smith,	HMPPS Prison Supply Directorate
Ms Katrina Hulse, BA (Hons) MA MRTPI	Planning Cushman & Wakefield

For the Council

Saira Kabir Sheikh KC and Charles Merrett of Counsel

Sam Thistlethwaite BA (Hons) MA	Planning Fornax Environmental Solutions Limited
Michelle Bolger FLI, Dip.LA, BA, PGCE, BA	Landscape and Visual Impact
Joanna Horton BA Hons (Int Arch) MA(Cons) IHBC	Heritage, Buckinghamshire Council
Owen Neal BA(Hons) MA MRTPI	Sports England
Paul Holton	Ecology Buckinghamshire Council
Andrew Cooper	Highways

Interested Parties

Rt Honourable Greg Smith MP
Councillor McPherson Buckinghamshire Council
Councillor Fealy Buckinghamshire West Ward
Councillor Harper Edgcott Parish Council
Mr Spence on behalf of Grendon Underwood Parish Council
Mr Dan Hayes
Ms Linda Holt
Mr Copsey

Appendix B

List of Inquiry Documents

INQ 1	List of appearances submitted by the MoJ
INQ 2	Opening remarks MoJ
INQ 3	Opening remarks Buckinghamshire Council
INQ 4	Note on traffic flows and collision data submitted by the MoJ
INQ 5	Mr Hayes submissions
INQ 6	Draft conditions
INQ 7	Secretary of State's minded to letter in relation to Garth and Wymott APP/D2320/W/22/3295556 submitted by the MoJ
INQ 8	R (on the application of Brommel) v Reading BC submitted by MoJ
INQ 9	Draft Unilateral Undertaking submitted by MoJ
INQ 10	Draft s106 agreement submitted by the MoJ
INQ 11	Plan showing HMP Five Wells viewing locations submitted by the Council
INQ 12	GLVIA Webinar questions and answers submitted by the MoJ
INQ 13	Plan showing areas of sports field submitted by MoJ
INQ 14	Draft conditions in respect of ecology
INQ 15	Schedule of changes to the appeal scheme submitted by the Council
INQ 16	e-mail from Ms Horton dated 2nd of December 2022
INQ 17	Plan showing potential viewpoints from Grendon Underwood Conservation Area towards the appeal site submitted by the Council
INQ 18	Draft unilateral undertaking
INQ 19	Draft section 106 agreement
INQ 20	Revised statement of common ground
INQ 21	Addendum to Mr Smith's proof of evidence
INQ 22	Clarifications and corrections to Dr Miele's proof of evidence
INQ 23	Email to Ms Horton dated 9 December 2022 submitted by the MoJ
INQ 24	Signed statement of common ground dated 1 February 2023
INQ 25	List of category C prisons within the sudden region
INQ 26	Evidence of the usage of the playing fields at HMP Springhill submitted by Mr Hayes
INQ 27	Revised draft conditions
INQ 28	List of category C prisons within 40 miles of the appeal site submitted by the Council
INQ 29	Draft s106 agreement
INQ 30	Draft Unilateral Undertaking
INQ 31	Parameter plan 441830-0000-PEV-GNX0011-ZZ-DR-A-9017 Rev P01
INQ 32	Plan showing historic changes 2 North and South Park submitted by MoJ

INQ 33	Not used
INQ 34	Closing Submissions Council
INQ 35	Closing submissions MOJ

Appendix 3

List of Core Documents

Core Documents can be found at [22/00125/REF | Outline Planning Application with all matters reserved except for access, layout and scale for the construction of a new Category C prison \(up to 67,000 sqm GEA\) within a secure perimeter fence together with access, parking, landscaping and associated engineering works. | Hm Prison Grendon Springhill Road Grendon Underwood Buckinghamshire HP18 0TL \(aylesburyvaledc.gov.uk\)](#)

	A Application Documents
A1	Planning Application form
A2	CIL Questions
A3	Planning Statement (Cushman & Wakefield)
A4	Air Quality Assessment (Ramboll)
A5	Arboricultural Impact Assessment and Method Statement (Tyler Grange)
A6	Archaeological Desk-Based Assessment (Orion)
A7	BREEAM Pre-Assessment (Mace)
A8	Design and Access Statement (Pick Everard)
A9	Ecological Impact Assessment (Ramboll)
A10	Bat Activity Survey (Ramboll)
A11	Biodiversity Net Gain Assessment (Ramboll)
A12	Biodiversity Net Gain Assessment Plan (PEV)
A13	Great Crested Newts Report (Ramboll)
A14	Energy and Sustainability Statement (Mace)
A15	Flood Risk Assessment (Hydrock)
A16	Proposed Foul Water Drainage Strategy Report (PEV)
A17	Proposed Foul Water Drainage Strategy Plan
A18	Proposed Surface Water Drainage Strategy Report (PEV)
A19	Proposed Surface Water Drainage Strategy Plan
A20	Proposed SUDS Strategy Report (PEV)
A21	Geo-Environmental Appraisal (Ashdown)
A22	Heritage Statement (The Heritage Advisory)
A23	Landscape and Visual Impact Assessment (Pegasus)
A24	Noise and Vibration Impact Assessment (Hydrock)
A25	Socio Economic Statement (Mace)
A26	Statement of Community Involvement (Cushman & Wakefield)
A27	Transport Assessment (Atkins)
A28	Outline Travel Plan (Atkins)
A29	Utility Report (PEV)
A30	UXO Desk Top Survey (PEV)
A31	Waste Management Strategy (Mace)
A32	Topographical Survey
A33	Site Location Plan

A34	Site Block Plan - Existing
A35	Site Block Plan - Proposed
A36	Site Block Plan - Demolition
A37	Existing Section
A38	Proposed Section
A39	Landscape Masterplan
A40	Public Right of Way Diversion Plan
A41	Access Design - Proposed
A42	Pedestrian Approach Indicative CGI
A43	Aerial View Indicative
A44	External Lighting Layout
A45	Screening Opinion Decision 01.07.21
A46	Demolition - additional submission (OPA) 14.02.21
A47	Drainage - additional submission (OPA) 0821
A48	Biodiversity Net Gain - additional submission (OPA) 24.09.21
A49	Demolition and Fencing - additional submission (OPA) 0921
A50	blank
A51	Heritage - additional submission (OPA) 01.10.21
A52	Highways - additional submission (OPA) 11.11.21
A53	GS2 Email to Sport England (response) 25.11.21
A54	GS2 Letter to Sport England (response) 22.10.21
A55	Planning response - additional submission (OPA) 14.01.22
A56	Ecology - additional submission (OPA) 17.01.22
A57	Planning response - additional submission (OPA) 09.02.22
A58	PRoW - additional submission (OPA) 13.12.21
A59	GS2 Landscape Response 03.02.22
A60	GS2 Highways response 21.03.22
A61	GS2 Letter to BC (ecology response) encl. 21.03.22
A62	Committee Report 24.03.22
A63	Update Committee Report 24.03.22
A64	Printed Minutes
A65	Decision Notice
A66	Email to Warwickshire (ecology) 17.11.21
A67	Pre-Application advice from LPA 08.10.20
	B Consultation Responses
B1	Environment Agency 15.10.21
B2	Landscape
B3	ONR 05.11.21
B4	Sport England 17.02.22
B5	Sport England 08.05.21
B6	CPRE
B7	ROW 01.03.21
B8	Minerals and Waste
B9	Gardens Trust (Grendon Hall) 0321 rev 0621
B10	Gardens Trust 14.02.21
B11	Gardens Trust 10.09.21
B12	Gardent Trust 13.12.21

B13	Gardent Trust (Grendon Hall) 0321 rev 1221
B14	GU and Edgcott PCs -LVIA Criticque and Photomontage Study_Objection_Final.pdf.
B15	GU and Edgcott PCs -Ridge and Furrow objection Jan 2022
B16	GU and Edgcott PCs -Ridge furrow objection Final
B17	GU and Edgcott PCs-LVIA Critique and Photomontage Study_Objection_Final.pdf
B18	GUPC Edgcott Response to the Heritage Assessment
B19	GU and Edgcott PCs Further Landscape objection Jan 2022
B20	GU and Edgcott PCs Objection on shared amenity space and public safety Jan 2022
B21	Edgcott PC Objections Summary_Final (1)
B22	Edgcott and Grendon Underwood PCs
B23	Edgcott PC
B24	Grendon Underwood PC
B25	GU and Edgcott PCs -Comment on Archaeological Consultee Response Feb 2022
B26	GUPC and Edgcott PC
B27	GU and Edgcott PCs - Field adjacent to Edgcott Road_Final
B28	GU and edgcott PCs Field adjacent to Edgcott Road_Final
B29	GU and Edgcott PCs -New block plan and differences vs original version
B30	GU and edgcott PCs -Prison Needs (002) Version 2
B31	GUPC and edgcott PC Response to Highway
B32	Grendon Underwood PC
B33	Grendon Underwood PC (2)
B34	GUPC
B35	GU and Edgcott PCs -New block plan and differences vs original version
B36	GUPC Planning Response statement abridged Final 11.03.22
B37	Historic England 24.08.21
B38	Historic England 20.09.21
B39	HSE (2) 25.08.21
B40	HSE (3) 08.11.21
B41	HSE 25.08.21
B42	HSE
B43	Archaeology
B44	Archaeology 2
B45	Archaeology 3
B46	Archaeology 21.22.21
B47	ROW
B48	Ecology
B49	Ecology
B50	Ecology
B51	Ecology Newts
B52	Env Health
B53	Env Health

B54	Env Health
B55	Strategic Env Health 04.03.22
B56	Highways
B57	Highways 2
B58	Natural England 03.08.21
B59	Natural England (2) 23.02.22
B60	Natural England
B61	Heritage
B62	BBOWT 14.12.21
B63	SUDS
B64	Bucks Sustainable Drainage
B65	Waste
B66	Trees
B67	Bucks Recycling and Waste
B68	Hillesden PC 03.09.21
B69	Calvert Green PC
B70	Charndon PC
B71	Grendon Underwood PC
B72	Edgcott PC
B73	Charndon PC
B74	GU Ward Members
B75	Edgcott PC
B76	Cllr Angela Macpherson
B77	Cllr Frank Mahon
B78	Cllr Michael Rand
B79	GU and Edgcott PC
B80	Email from Warwickshire (ecology) 10.11.21
B81	Sport England 23.11.21
B82	Sport England 20.01.22
B83	Sport England 08.11.21
	C Appeal Documents
C1	Planning Appeal Form
C2	05b List of submitted plans and documents
C3	05c List of plans and documents for determination
C4	06b List of plans and documents which did not form part of the application
C5	09b List of plans and documents not previously seen by the LPA
C6	Appellants Statement of Case
C7	Draft Statement of Common Ground
C8	Inspectors Post-CMC Note
C9	Letter from PINS - EIA (not required) 01.12.22
C10	LPA Statement of Case
C11	Draft Section 106 Legal Agreement
C12	Draft conditions

C13	Statement of Common Ground: Landscape and Visual Matters
	D Representations to the Appeal
	D1- D24 - Representations from interested parties
	E Appellant Proofs of Evidence
E1	Planning Proof of Evidence (Katrina Hulse, C&W)
E2	Needs Case Proof of Evidence (James Smith, MoJ) and Annex A (separate document)
E3	Landscape Proof of Evidence (Katie Machin, Pegasus)
E4	Socio Economic Proof of Evidence (Richard Cook, Pegasus)
E5	Highways Proof of Evidence (Duncan Cartwright, Atkins)
E6	Heritage Proof of Evidence (Chris Miele, Montagu Evans)
E7	Heritage Statement (Montagu Evans)
E8	Decision Notice
	Decision Notice
F1	decision Notice
F2	Landscape Proof of Evidence and Appendices
F3	Heritage Proof of Evidence
F4	Ecology Proof of Evidence
F5	Sport England Proof of Evidence
	G Appellant Documents Submitted Prior to the Inquiry
G1	Black Hairstreak Butterfly Survey (Ramboll, 2022)
G2	Bat Survey Report (Ramboll, 2022)
G3	Updated BNG Report (submitted scheme - DEFRA 3.1 metric)
G4	Photographs - HMP Five Wells
G5	Updated BNG Plan
G6	Updated Landscape Masterplan
G7	Updated BNG Report (updated landscape scheme - DEFRA 3.1 metric)
G8	External Lighting Report
G9	External Lighting Layout Sheets 1-5 (revised lighting design)
G10	Minerals Assessment (Stantec, Dec 2022)
	H National Planning Policy
H1	NPPF July 2021
H2	PPG (web link)
H3	DEFRA Noise Policy Statement for England (2010)
H4	LA111 Noise and Vibration
H5	WHO Guidelines for Community Noise
H6	LI Guidelines for Landscape and Visual Impact Assessment
H7	DfT Manual for Streets
H8	Town and Country Planning (Development Management Procedure) (England) Order 2015
H9	Buckinghamshire LTP (2016)
H10	BC Highways Development Management Guide (2018)
H11	Biodiversity Net Gain SPD
H12	Sport and Leisure Facilities SPD
H13	Sport and Leisure Facilities Companion Document

H14	Sport England Planning for Sport Guidance (2019)
H15	Sport England Playing Field Policy
H16	Town and Country Planning (Consultation Direction) 2021
H17	Sport England Equivalent Quality Assessment of Natural Turf Playing Fields
	I Local Planning Policy and Guidance
I1	Vale of Aylesbury Local Plan 2012-2033
I2	Bucks Minerals and Waste LP 2016-2036
I3	Minerals Safeguarding Area
I4	Grendon Underwood Conservation Area Map
I5	VALP Policies Map
I6	Aylesbury Vale Landscape Character Assessment (2008)
I7	Grendon Underwood Conservation Area Appraisal
I8	Quinton Conservation Area Appraisal (2015)
I9	Waddesdon Conservation Area Appraisal (July 2014)
I10	Wotton Underwood Conservation Area Appraisal (February 2008)
I11	Ludgershall Conservation Area Appraisal (December 2008)
I12	Managing Significance in Decision – Taking in the Historic Environment Good Practice Advice in Planning Note 2 (2015)
I13	The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) (December 2017)
I14	Local Heritage Listing: Identifying and Conserving Local Heritage Historic England Advice Note 7 (Second Edition)
I15	Rural Landscapes: Register of Parks and Gardens Selection Guide (January, 2018)
I16	Understanding Historic Parks and Gardens in Buckinghamshire, Grendon Hall, March 2021, (Revised December 2021)
	J Other
J1	Economic Impact of a New Prison
J2	Prison Strategy White Paper (2021)
J3	Conservative Manifesto (2019)
J4	HMPPS Framework
J5	HMPPS Annual Digest 2021/2
J6	Prison Population Projections 2021/6
J7	Prisons and their resettlement providers
J8	Prison Population November 2022
J9	Security Categorisation Policy Framework
J10	Population and Capacity Briefing for 30 December 2022
J11	Population and Capacity Briefing for Friday 7 January 2022
J12	blank
J13	blank
J14	Landscape Institute Technical Guidance Note - Assessing landscape value outside national designations 2021 (TGN 02/21)
J15	National Character Area profiles, Natural England, 2014, NCA 108: Upper Thames Clay Vales

J16	Economic and Social costs of re-offending: Analytical Report (Ministry of Justice, 2019)
J17	Institution of Highways & Transportation Guidelines for Providing Journeys on Foot
J19	MoJ Lord Farmer Report: The Importance of Strengthening Prisoner Family Ties (2017)
J20	National Character Area profiles, Natural England, 2014, NCA 109: Midvale Ridge
J21	JBARN 10 METRES TO SOUTH WEST OF SHAKESPEARE FARMHOUSE, Grendon Underwood - 1311427 _ Historic England
J22	LAWN HOUSE, Grendon Underwood - 1158482 _ Historic England
J23	LOWER FARMHOUSE, Edgcott - 1288631 _ Historic England
J24	LOWER GREATMOOR FARMHOUSE AND ATTACHED BARN, Grendon Underwood - 1124268 _ Historic England
J25	MANOR FARM COTTAGE MANOR FARMHOUSE, Edgcott - 1214322 _ Historic England
J26	HAY BARN TO WEST OF FARMYARD AT MANOR FARMHOUSE, Edgcott - 1214281 _ Historic England
J27	GRENDON HALL, Grendon Underwood - 1158513 _ Historic England
J28	GATEPIERS, PEDESTRIAN GATES AND RAILINGS AT ENTRANCE TO GRENDON HALL, Grendon Underwood - 1158531 _ Historic England
J29	DAFFODIL COTTAGE, Grendon Underwood - 1124270 _ Historic England
J30	COWSHED ON NORTH SIDE OF FARMYARD TO WEST OF MANOR FARMHOUSE, Edgcott - 1214323 _ Historic England
J31	CHURCH OF ST MICHAEL, Edgcott - 1214280 _ Historic England
J32	CHURCH OF ST LEONARD, Grendon Underwood - 1332808 _ Historic England
J33	BARN TO SOUTH WEST OF RECTORY FARMHOUSE, Edgcott - 1288649 _ Historic England
J34	BARN ADJACENT TO WEST AND OUTBUILDING TO NORTH OF MANOR FARMHOUSE, Edgcott - 1288650 _ Historic England
J35	RECTORY FARMHOUSE, Edgcott - 1214279 _ Historic England
J36	SHAKESPEARE FARMHOUSE, Grendon Underwood - 1124272 _ Historic England
J37	THE OLD RECTORY, Grendon Underwood - 1158489 _ Historic England
J38	Chartered Institution of Highways and Transportation (CIHT) Planning for Walking (2015)
J39	Guidance Notes for the Reduction of Obtrusive Light (2011)

Appendix D

List of recommended conditions

GENERAL CONDITIONS:

1. Approval of the details of the external appearance of the buildings and the landscaping of the site (hereafter called 'the reserved matters') shall be obtained in writing from the Local Planning Authority before the development is commenced.
2. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall only be carried out in accordance with the details contained within the planning application and the hereby approved plan numbers and information:
 - Proposed Block Plan - 441830-0000-PEV-GNX0011-ZZ-DR-A-9013 – Rev P07
 - Proposed Block Plan (Building Heights) - 441830-0000-PEV-GNX0011-ZZ-DR-A-9016 – Rev P03
 - Proposed Block Plan (Parameter Plan) – 441830-0000-PEV-GNX0011-ZZ-DR-A-9017 – Rev P01
 - Block Plan Demolition - 441830-0000-PEV-GNX0011-ZZ-DR-A-9111_P03 – Rev P03
 - Public Right of Way Diversion Plan - 441830-0000-PEV-GNX0011-XX-DR-L-0023 – Rev P05
 - Access Design – Proposed - 441830-0000-ATK-GNX0000-XX-DR-D-0001 – Rev 03
 - Site Location Plan Existing 441830-0000-PEV-GNX0011-ZZ-DR-A-9010-P03
 - Site Block Plan Existing 441830-0000-PEV-GNX0011-ZZ-DR-9011-P03
 - Site Sections Existing 441830-0000-PEV-GNX0011-ZZ-DR-A-9014-P03
 - Proposed Section - 441830-0000-PEV-GNX0011-ZZ-DR-A-9015_P02 – Rev P02
5. The proposed buildings shall not exceed the heights shown on Parameter Plan 441830-0000-PEV-GNX0011-ZZ-DR-A-9017/P01.

HIGHWAY CONDITIONS

6. No other part of the development shall commence, until minimum vehicular visibility splays of 2.4m by 79.0m have been provided on both sides of the proposed access, and the area contained within the splays shall be kept free

of any obstruction between 0.6m and 2.0m above ground level and maintained as such thereafter.

7. The scheme for parking and manoeuvring indicated on the submitted plans (ref. Proposed Block Plan - 441830-0000-PEV-GNX0011-ZZ-DR-A-9013_rev P07) shall be laid out prior to the initial operational use of the prison hereby permitted and that area shall not thereafter be used for any other purpose.
8. Notwithstanding the cycle parking details shown on the drawings hereby approved (ref. Proposed Block Plan - 441830-0000-PEV-GNX0011-ZZ-DR-A-9013_rev P07), prior to the initial operational use of the prison hereby permitted, details of lit, covered, and secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority. Prior to the operational use of the prison, the cycle parking shall be implemented and it shall thereafter be retained in accordance with the approved details and not used for any other purpose.
9. Details of electric vehicle charging shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the following:
 - At least 10% of the total number of vehicle parking spaces shall be for electric vehicle charging.
 - Dedicated freestanding weatherproof chargers
 - Each electric vehicle charging bay shall measure at least 3m by 6m

The electric vehicle charging shall be implemented and be retained in accordance with the approved details prior to the first operational use of the prison and not thereafter be used for any other purpose.

10. Prior to the commencement of any development works on the site, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority, and the approved CTMP shall be adhered to throughout the construction period. The CTMP shall include the following details:
 - Construction access details, temporary or otherwise, and associated traffic management measures, such as temporary warning signage and banksmen (as appropriate);
 - Construction traffic routing, including signage and communication methods, and enforcement measures to ensure the HGV construction traffic route is adhered to;
 - Co-ordination and management of deliveries to avoid multiple deliveries at the same time and spread HGV movements;
 - Delivery hours outside of highway network peak periods;
 - Parking of vehicles of site personnel, operatives, and visitors off the highway to minimise disturbance to residents and ensure parking is contained within appropriate area;
 - Construction Staff Travel Plan;
 - Loading and unloading of plant and materials and storage of plant and materials used in constructing the development off the highway;
 - Erection and maintenance of security hoarding; and
 - Wheel-washing facilities;

HERITAGE & LANDSCAPE CONDITIONS

11. Details of an interpretation board and related signage in relation to the ridge and furrow landscape shall be submitted to and approved in writing by the Local Planning Authority. The boards and related signage shall be installed in accordance with the approved details prior to the commencement of the use of the ports pitch and retained thereafter.
12. No development shall take place above damp proof course, until details of the appearance, boundary treatment and signage of the new access have been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be laid out in accordance with the approved details and retained thereafter and no other changes shall be made to the appearance, boundary treatment or signage of the access. No floodlighting or other form of external lighting shall be installed without express consent from the Local Planning Authority.
13. No development shall take place above damp proof course on the buildings hereby permitted until details of all screen and boundary walls, fences and any other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented. The approved boundary treatment shall thereafter be retained.
14. No development shall take place, unless authorised by the local planning authority, until the applicant, or their agents or successors in title, have undertaken an archaeological earthwork survey of the medieval ridge and furrow remains in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the planning authority.
15. No development shall take place, unless authorised by the local planning authority, until the applicant, or their agents or successors in title, have undertaken archaeological evaluation in form of a geophysical survey and trial trenching in accordance with a written scheme of investigation, excluding the area of ridge and furrow to be retained, which has been submitted by the applicant and approved in writing by the planning authority. Where significant archaeological remains are confirmed these would be preserved in situ where possible.
16. Where significant archaeological remains are confirmed and can be preserved in situ, no development shall take place until the applicant, or their agents or successors in title, have provided an appropriate methodology for their preservation in situ which has been submitted by the applicant and approved in writing by the planning authority.
17. Where archaeological remains are recorded by evaluation and would not be preserved in situ no development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation

which has been submitted by the applicant and approved in writing by the planning authority.

18. Any reserved matters application for landscaping submitted pursuant to Condition 1, shall include full details of both hard and soft landscape works. For hard landscape works, these details shall include; proposed finished levels or contours; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials. For soft landscape works, these details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.
19. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.
20. Prior to the commencement of works, all the existing trees/bushes/hedges to be retained shall be protected and the approved works undertaken in accordance with the measures submitted Arboricultural Impact Assessment and Method Statement (Tyler Grange, 2021).

SPORTS PITCH PROVISION CONDITIONS

21. Prior to commencement of development of the new/re-provided playing pitch, a detailed scheme for this pitch, the running track and replacement gym equipment shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include a detailed assessment of ground conditions of the new/re-provided playing pitch (including drainage and topography) to ensure the new pitch is provided to an acceptable quality.
22. The new/re-provided playing pitch shall be made available for use prior to the commencement of development on the existing playing field, and retained thereafter in accordance with the approved details and not used for any other purpose.
23. Prior to the initial operational use of the prison, the running track and replacement gym equipment shall be provided.

ECOLOGY CONDITIONS

24. The development shall be implemented in accordance with the recommendations detailed in Black Hairstreak Butterfly Survey from Ramboll,

dated August 2022, Bat survey from Ramboll, dated November 2022, and the Ecological Impact Assessment from Ramboll dated June 2021.

25. No development shall take place (including demolition, ground works, vegetation clearance) until the Landscape and Ecological Management Plan (LEcMP) has been submitted to and approved in writing by the local planning authority. The content of the LEcMP shall include the following.
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management which will include the provision of biodiversity net gain within the site as shown within the Biodiversity Gain Plan;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period);
 - g) Details of the body or organization responsible for implementation of the plan; and
 - h) Ongoing monitoring and remedial measures.

The LEcMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The plan shall be for no less than 30 years. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEcMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall thereafter be implemented in accordance with the approved details.

26. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

27. Before any construction works hereby approved are commenced, a revised Biodiversity Net Gain Report and associated Biodiversity Metric demonstrating that Biodiversity Net Gain can be achieved on site, shall be submitted to, and approved in writing by the Local Planning Authority. The Biodiversity Net Gain Report should adhere to best practice and include:
- a) Summary of key points;
 - b) Introduction to the site, project, planning status, certainty of design and assumptions made, the aims and scope of the study and relevant policy and legislation;
 - c) Methods taken at each stage; desk study, approach to Biodiversity Net Gain and evidence of technical competence;
 - d) Baseline conditions of the site including; important ecological features and their influence on deliverability of Biodiversity Net Gain, baseline metric calculations and justifying evidence, and a baseline habitat plan that clearly shows each habitat type and the areas in hectares;
 - e) Justification of how each of the Biodiversity Net Gain Good Practice Principles has been applied;
 - f) Proposed Design to include a proposed habitat plan and details of what will be created. This can be taken from the site layout plan, illustrative masterplan, green infrastructure plan or landscape plans. The plan should clearly show what existing habitat is being retained and what new habitat will be created. It should be easy to identify the different habitat types and show the areas in hectares of each habitat or habitat parcel;
 - g) Biodiversity Metric spreadsheet, submitted in excel form that can be cross referenced with the appropriate plans;
 - h) Implementation Plan including a timetable for implementation;
 - i) Biodiversity Net Gain Management and Monitoring Plan.
28. No development shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the Local Planning Authority. The purpose of the strategy shall be to report to the Local Planning Authority on progress towards achieving Biodiversity Net Gain. The content of the Strategy shall include the following.
- a) Aims and objectives of monitoring to match the stated purpose;
 - b) Identification of adequate baseline conditions prior to the start of development;
 - c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged;
 - d) Methods for data gathering and analysis;
 - e) Location of monitoring;
 - f) Timing and duration of monitoring;
 - g) Responsible persons and lines of communication;
 - h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

29. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's organisational licence (WML-OR112) and with the proposals detailed on plan "Grendon Springhill 2: Impact Plan for great crested newt district licensing" (Version 2) dated 7th December 2021.
30. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved in writing by the Local Planning Authority and the local authority has provided authorisation for the development to proceed under the district newt licence.
31. No development hereby permitted shall take place except in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR112 and in addition in compliance with the following:
 - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
 - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).
 - Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.
 - The recommendations in report "Grendon Springhill 2 District Licence HMMP" Version 1 dated the 29th of October 2021 and on plan "Grendon Springhill 2 – Retained habitats plan" (Version 1) dated the 29th of October 2021 provided as part of the planning application must be complied with.

CONTAMINATION CONDITIONS

32. Development shall not commence until:
 - a) additional site investigation works targeting any proposed soft landscaping which appears to be within or close to the inferred location of the former ponds and demolished buildings along the northern part of the site as

recommended within the Combined Geotechnical and Ground Contamination Risk Assessment, reference: R14484, written by Ashdown Site Investigation Limited, has been submitted to and approved in writing by the Local Planning Authority. This must include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.

- b) A site investigation report detailing all additional investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to any remediation works commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

The agreed remediation works shall be fully remediation works shall be fully completed before any other construction work commences.

AIR QUALITY & NOISE CONDITIONS

33. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of how potential impacts of noise, vibration and dust will be managed during construction. The plan shall indicate proposed hours of operation for construction activities that have potential to cause nuisance to nearby residents. The plan shall include details of any proposed complaints management process so that complaints can be dealt with promptly and effectively.
34. Notwithstanding the recommendations of the Noise and Vibration Impact Assessment submitted, prior to the initial operational use of the prison hereby permitted, a scheme for the protection of occupants of Lawn House from noise arising from the access road shall be submitted and approved in writing by the Local Planning Authority. The agreed scheme shall be provided prior to the initial operational use of the prison in accordance with the approved details and shall thereafter be permanently retained as such.
35. Notwithstanding recommendations of the Noise and Vibration Impact Assessment submitted, prior to the initial operational use of the prison hereby permitted, a scheme for the protection of occupants of Springhill Road from noise arising from the playing pitch shall be submitted and approved in writing by the Local Planning Authority. The agreed scheme shall be provided prior to the initial operational use of the prison in accordance with the approved details and shall thereafter be permanently retained as such.
36. No development shall take place until a Piling Method Statement to protect the occupants of Lawn House has been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved Statement.

DRAINAGE CONDITIONS

37. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before initial operational use of the prison. The scheme shall also include:
- a) Assessment of SuDS components as listed in the CIRIA SuDS Manual (C753) and provide justification for exclusion if necessary;
 - b) Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components
 - c) Discharge rates to be limited to a total runoff rate of 38.7l/s or less as calculated using FEH methods
 - d) Ground investigations including:
 - i) Infiltration in accordance with BRE365
 - ii) Groundwater level monitoring over the winter period
 - e) In the event that infiltration is not viable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to the drainage hierarchy as outlined in paragraph 080 of the Planning Practice Guidance;
 - f) Full construction details of all SuDS components;
 - g) Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components;
 - h) Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site;
 - i) Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.

OTHER CONDITIONS

38. Prior to the commencement of the development hereby approved, details of the proposed slab levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land, with reference to a fixed datum point shall be submitted to and approved in writing by the Local

Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

39. Notwithstanding the development hereby approved, no development shall take place above damp proof course on the building(s) hereby permitted until details have been submitted to and approved in writing by the Local Planning Authority demonstrating the measures that will be taken to improve energy efficiency and building sustainability in accordance with the Energy and Sustainability Statement (Mace, 2021) submitted with the application. The development shall subsequently be implemented in accordance with the approved details.
40. Prior to the initial operational use of the prison hereby approved, a lighting design strategy for all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, location, height, type and direction of light sources and intensity of illumination); and
 - c) Demonstrate that areas to be lit will not disturb or prevent species using their territory or having access to their breeding sites and resting places.

No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy and shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.



Department for Levelling Up, Housing & Communities

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.