



HM Prison &  
Probation Service

# Proof of Evidence

**James Smith – Deputy Director, HMPPS Prison Supply Directorate**

Introduction	Page 2
Her Majesty's Prison and Probation Service	Page 4
Prison policy	Page 9
Demand for prison places	Page 12
Meeting the need for new prison places	Page 15
Benefits of delivering the scheme	Page 17
Alternative sites	Page 19
Summary and conclusions	Page 20

**Annex A:** Site search process

A handwritten signature in black ink, appearing to read 'J Smith', with a long horizontal line extending to the right.

**James Smith**  
06 September 2022

## 1. Introduction

- 1.1. My name is James Smith and I am a Senior Civil Servant working as a Deputy Director within the Prison Supply Directorate in Her Majesty's Prison and Probation Service (HMPPS). In this role I am the Programme Director for the New Prisons Programme.
- 1.2. The New Prisons Programme plans to deliver four new prisons, in addition to HMP Five Wells (opened in February 2022) and HMP Fosse Way (set to open mid-2023), to address the forecasted rise in prison population and provide around 6,500 new prison places. The four new prisons form a major part of plans to transform and modernise the prison estate to boost rehabilitation and reduce reoffending, providing improved security and additional training facilities to help offenders find employment on release. The New Prisons Programme is part of the Government Major Projects Portfolio (GMPP) which includes projects that: require spending over and above departmental expenditure limits; require primary legislation; and are innovative or contentious. GMPP Projects are independently assured by the Infrastructure and Projects Authority (IPA). The IPA works with HM Treasury and other government departments to provide independent assurance on major projects<sup>1</sup>.
- 1.3. As Programme Director, I am responsible for delivering the construction, mobilisation and operation of the four new prisons and ensuring the programme is delivered on time and within budget.
- 1.4. I have been a Civil Servant for 16 years and a Senior Civil Servant since May 2021. I have held senior positions in transformation and capital investment programmes within HMPPS for over six years and worked in the Criminal Justice System (CJS) since 2011. My qualifications are:
  - B.A. Degree in American Studies; University of Kent; and
  - Graduate of the Government's Project Leadership Programme (PLP)
- 1.5. As a Civil Servant, I am expected to carry out my role with dedication and a commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality:
  - 'integrity' is putting the obligations of public service above my own personal interests;
  - 'honesty' is being truthful and open;
  - 'objectivity' is basing my advice and decisions on rigorous analysis of the evidence; and
  - 'impartiality' is acting solely according to the merits of the case and serving equally well governments of different political persuasions.
- 1.6. As well as being Programme Director for the New Prisons Programme, from June 2019 until June 2021 I was responsible for securing private sector operators through a competitive public procurement process to run HMP Five Wells and HMP Fosse Way. I am also the Senior Responsible Officer (SRO) for the houseblock expansion project at HMP Rye Hill and for the Private Finance Initiative (PFI) Prison Expiry and Transfer Project. This project manages the exit and transfer of services of six prisons across the HMPPS estate that are contractually managed through PFI contracts and are due to expire by 2026.

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<sup>1</sup> [Infrastructure and Projects Authority - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

1.7. I report to the SRO for the New Prisons Programme, who is ultimately accountable to the Ministry of Justice's (MoJ) Second Permanent Secretary, Permanent Secretary, and through them to Ministers and Parliament. The government standard for project delivery<sup>2</sup> notes that the responsibilities of the SRO role include:

- Defining and communicating the vision and business objectives in line with policy;
- Ensuring a real business need is being addressed;
- Providing the team with leadership, decisions and direction;
- Ensuring the delivered solution meets the needs of the business;
- Assuring ongoing project viability; and
- Engaging key stakeholders.

1.8. The purpose of this Proof of Evidence is to:

- Explain the need for a new Category B training prison; and
- Address the benefits of delivering the scheme.

1.9. My Proof of Evidence is structured as follows:

- Section 2 explains the role and responsibilities of HMPPS, and types of prisons;
- Section 3 addresses the Government's policy on prison expansion;
- Section 4 considers the existing and future need for prison places;
- Section 5 addresses the way in which the need for new prison places is to be met;
- Section 6 considers the benefits of delivering the scheme;
- Section 7 explains the site search process; and
- Section 8 contains my summary and conclusions.

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<sup>2</sup> Government Functional Standard GovS 002: Project Delivery - GOV.UK ([www.gov.uk](http://www.gov.uk))

## 2. Her Majesty's Prison and Probation Service

2.1. HMPPS is an executive agency of the MoJ. It is responsible for keeping those sentenced to prison in custody and helping them lead law abiding and useful lives, both while they are in prison and after they are released<sup>3</sup>. HMPPS has responsibility, on behalf of the Secretary of State for Justice, to provide public sector prisons and manage the provision of private sector prisons in England and Wales<sup>4</sup> **(CD/J4)**.

2.2. Within England and Wales, HMPPS is responsible<sup>5</sup> for:

- Running prison and probation services;
- Rehabilitation services for people leaving prison;
- Making sure support is available to stop people reoffending; and
- Contract managing private sector prisons and services such as the prisoner escort service and electronic tagging.

2.3. HMPPS's priorities are to:

- Deliver the government's vision and investment to make prisons places of safety and reform, and to continue to transform HMPPS's work in the community; and
- To provide safe and supportive environments, where people work through the reasons that caused them to offend and prepare for a more positive future.

2.4. HMPPS works with many agencies, organisations and partners to provide services including charities and social enterprises, independent inspectors, local councils, youth offending teams, courts, police and other enforcement agencies to support the justice system.

2.5. The legislative powers governing the prison service are set out in the Prison Act 1952<sup>6</sup> (the Act). Section 1 of the Act provides that *"All powers and jurisdiction in relation to prisons and prisoners which before commencement of the Prison Act 1877 were exercisable by any other authority shall, subject to the provisions of this Act, be exercisable by the Secretary of State."*

2.6. In relation to place of confinement for prisoners, Section 12 of the Act provides that:

*(1) A prisoner, whether sentenced to imprisonment or committed to prison on remand or pending trial or otherwise, may be lawfully confined in any prison.*

*(2) Prisoners shall be committed to such prisons as the Secretary of State may from time to time direct; and may by direction of the Secretary of State be removed during the term of their imprisonment from the prison in which they are confined to any other prison.*

*(3) A writ, warrant or other legal instrument addressed to the governor of a prison and identifying that prison by its situation or by any other sufficient description shall not be invalidated by reason only that the prison is usually known by a different description.*

2.7. In relation to the development of the prison estate, Section 33 of the Act provides that:

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<sup>3</sup> [About us - Her Majesty's Prison and Probation Service - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>4</sup> HMPPS Framework

<sup>5</sup> [About us - Her Majesty's Prison and Probation Service - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>6</sup> [Prison Act 1952 \(legislation.gov.uk\)](http://legislation.gov.uk)

- (1) The Secretary of State may with the approval of the Treasury alter, enlarge or rebuild any prison and build new prisons.*
- (2) The Secretary of State may provide new prisons by declaring to be a prison—*
  - (a) any building or part of a building built for the purpose or vested in him or under his control; or*
  - (b) any floating structure or part of such a structure constructed for the purpose or vested in him or under his control.*
- (3) A declaration under this section may with respect to the building or part of a building declared to be a prison make the same provisions as an order under the next following section may make with respect to an existing prison.*
- (4) A declaration under this section may at any time be revoked by the Secretary of State.*
- (5) A declaration under this section shall not be sufficient to vest the legal estate of any building in the Secretary of State.*

2.8. The Act contains specific provisions for the cell requirements in prisons in Section 14 as follows:

- (1) The Secretary of State shall satisfy himself from time to time that in every prison sufficient accommodation is provided for all prisoners.*
- (2) No cell shall be used for the confinement of a prisoner unless it is certified by an inspector that its size, lighting, heating, ventilation and fittings are adequate for health and that it allows the prisoner to communicate at any time with a prison officer.*
- (3) A certificate given under this section in respect of any cell may limit the period for which a prisoner may be separately confined in the cell and the number of hours a day during which a prisoner may be employed therein.*
- (4) The certificate shall identify the cell to which it relates by a number or mark and the cell shall be marked by that number or mark placed in a conspicuous position; and if the number or mark is changed without the consent of an inspector the certificate shall cease to have effect.*
- (5) An inspector may withdraw a certificate given under this section in respect of any cell if in his opinion the conditions of the cell are no longer as stated in the certificate.*
- (6) In every prison special cells shall be provided for the temporary confinement of refractory or violent prisoners.*

2.9. HMPPS Population Management Unit (PMU) has responsibility for the administration of cell certificates and for maintaining the database used to record official accommodation statistics and to produce bulletins and briefings for senior management and Ministers. The PMU provides advice and guidance on the preparation of cell certificates and on the application of the standards of accommodation. It advises on wider estate management issues that might influence decisions on changes proposed to accommodation and operational capacity.

2.10. All prison cells must have cell certificates in order for them to hold prisoners. The certificates must state on them the uncrowded capacity (Certified Normal Accommodation) as well as the maximum crowded capacity of the cell. Each prison has a total Certified Normal Accommodation (total number of available uncrowded prison places) and an Operational Capacity (total number of available places if those cells that are certified as being capable of being crowded are crowded).

2.11. HMPPS aims to keep as few prisoners as possible in crowded accommodation, however, in the year ending March 2022, due to the limited capacity in the estate approximately 20% of prisoners were held in crowded conditions<sup>7</sup> **(CD/J5)**.

2.12. In times of acute and urgent pressure on the capacity of the prison system, HMPPS has a number of options available to manage those pressures (other than providing additional accommodation which takes time to deliver). These options include:

- Postponing or interrupting maintenance work or other projects which require accommodation to be out of use, to boost short term capacity.
- Increasing levels of crowding so that a higher percentage of cells are holding more prisoners than they were designed to accommodate.
- Operation Safeguard – the short-term use of police cells to hold prisoners overnight (under the supervision of a Police Custody Sergeant) pending transfer into the prison estate. Operation Safeguard places are limited to around 400.

2.13. The implementation of these options is not sequential and depending on the severity of pressure some or all of these options may be used. Indeed, following the London riots in 2011, Operation Safeguard places were not sufficient to meet demand, so HMPPS held some prisoners overnight in court cells.

2.14. A lack of capacity has also previously led to prisoners being released before the end of their sentences. The End of Custody licence ran from June 2007 to March 2010 when prisoners could be released 18 days before the end of their automatic or conditional release date. This reduced HMPPS's ability to protect the public from offenders and harmed public confidence in the CJS.

### **Security classification, prison function and the prison estate**

2.15. There are four security categories for adult male prisoners:

- **Category A:** Those whose escape would be highly dangerous to the public, the police or the security of the state.
- **Category B:** Offenders whose assessed risks require that they need to be kept in a closed prison and who need security measures additional to those in a standard closed prison. Closed prisons are kept secure through the use of perimeter security fences or walls.
- **Category C:** Offenders who are assessed as requiring standard closed conditions, and do not need additional security.
- **Category D:** Offenders who are either assessed as presenting a low risk or whose previously identified risk factors are now assessed as manageable in low security conditions.

2.16. Individuals are categorised according to the risk they present to security, safety and public protection, and must be held in a prison providing levels of security appropriate to managing those risks. In categorising an individual to a particular security category, the risk factors to be assessed are defined in the Security Categorisation Policy Framework<sup>8</sup> **(CD/J9)**:

- Risk of escape or abscond;

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<sup>7</sup> HMPPS Annual Digest 2021/22

<sup>8</sup> Security Categorisation Policy Framework

- Risk of harm to the public;
- Ongoing criminality in custody;
- Violent or other behaviour that impacts the safety of those within the prison; and
- Control issues which disrupt the security and good order of the prison.

2.17. There are four main functions of prison for adult males:

- **High Security Prisons:** There are two type of high security prison: ‘Dispersal prisons’ and ‘core local prisons’.
  - Dispersal prisons (such as HMP Full Sutton) hold a mixture of Category A and Category B Prisoners. Dispersal prisons enable HMPPS to scatter Category A prisoners to avoid them all being in the same establishment.
  - Core local prisons (such as HMP Belmarsh) also hold a mix of Category A and Category B prisoners, including high profile prisoners on remand, Category A prisoners who have been convicted and are awaiting sentencing and sentenced Category A prisoners awaiting allocation to a dispersal prison.
- **Training/Resettlement Prisons:** Category C and Category B ‘training’ prisons are designed to house offenders at their corresponding category and give them the skills they need to increase their chances of finding employment upon release. Some Category C training prisons are ‘resettlement’ prisons, which hold prisoners closer to their local community to prepare them for release. The proposed new prison will be a Category B training prison.
- **Reception Prisons:** Holding those on short sentences, those on remand awaiting trial, those on trial or prisoners who have been convicted but are awaiting sentencing, and those awaiting allocation to another establishment post sentence. Reception prisons can hold all categories of offender.
- **Open Prisons:** Housing Category D prisoners, considered to be lowest risk. Sometimes these are prisoners who have worked their way down the prisoner security categories and are coming to the end of their sentence. Open prisons do not normally have perimeter security fences or walls and prisoners in open conditions often leave the prison during the day to go to work or education.

2.18. HMPPS has responsibility for the management of 122 establishments in England and Wales, including 119 prisons and three secure training centres managed under a service level agreement with the Youth Justice Board (YJB). A number of the prisons are multi-functional (e.g. have a resettlement and training function) and some are grouped together under a single Governor (e.g. HMP Usk and HMP Prescoed).

2.19. A breakdown of the number of prisons by category is provided in the table below.

Primary function	Number of prisons
Long-Term High Security (Category A and Category B)	16
Reception	31
Category C	44
Category D or “Open”	13
Female	11
Young Offenders’ Institute (YOI)	4
Secure Training Centres	3 managed by YJB
<b>Total</b>	<b>122*</b>

*\* In this table: HMP Usk ('Cat C') and HMP Prescoed ('Open') have been separated out. HMP Spring Hill ('Open') and Grendon ('Long-Term High Security Estate') have been separated out. HMP Peterborough is the only Male and Female prison in the estate. It has been separated out and included in 'Reception' and 'Female'. 14 prisons are run under contract by the private sector. 3 of the YOIs also hold category C prisoners.*



### 3. Prison policy

- 3.1. There is a need to ensure there are sufficient prison places of the right type to meet long term needs. This was reflected in the 2019 Conservative Party Manifesto<sup>9</sup> **(CD/J3)** commitment to deliver 10,000 new prison places and developed further in the Prison Strategy White Paper in 2021<sup>10</sup> **(CD/J2)**, which increased this commitment to 20,000 places. I address the specific demand forecasts for prison places in more detail in Section 4.
- 3.2. The forecast increase in demand for prison places is primarily driven by:
- The impact of recruiting 23,400 more police officers<sup>11</sup> **(CD/J6)**;
  - The impacts of the proposals in the Police, Crime, Sentencing and Courts Act<sup>12</sup> which includes provisions for changing the automatic release point for violent and sexual offenders sentenced to a standard determinate sentence of 4-7 years;
  - The impacts of legislation to increase custodial sentences for serious offenders with a custodial sentence of 7 years or more<sup>13</sup>;
  - The impacts of the Domestic Abuse Act 2021<sup>14</sup>, including extending extraterritorial jurisdiction over specified offences (necessary for ratification of the Istanbul Convention).
- 3.3. The above legislative and policy changes are forecast to lead to significantly more arrests, charges and sentences, and a similarly significant increase in demand for prison places<sup>15</sup> **(CD/J6)**.
- 3.4. This challenging demand profile will be exacerbated by the rate of court recovery dealing with the increase in backlog of cases from the Covid-19 pandemic, which caused delays to the operation of Crown Courts. An increase in Crown Court capacity<sup>16</sup> over the next few years, to drive down the backlog of cases, is forecast to drive a further increase in demand for prison places.
- 3.5. The criminal barristers' strike was announced subsequently to the latest published projections which are used in this proof. The strike will push back some elements of demand but will not impact the longer term need for more prison capacity.
- 3.6. It is therefore of critical importance to the CJS across England and Wales that additional prison places are provided at speed to meet demand over the next five years and beyond.

#### **Better Design, Safety and Security, Reduced Rates of Reoffending and Improved Life Chances for Offenders**

- 3.7. As well as the sheer demand for prison places, there are a number of issues faced by HMPPS within the current estate which justify the development of new prison places. The issues include:

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<sup>9</sup> Conservative 2019 Manifesto

<sup>10</sup> Prison Strategy White Paper (December 2021)

<sup>11</sup> Prison Population Projections 2021 to 2026

<sup>12</sup> [Police, Crime, Sentencing and Courts Act 2022 - Parliamentary Bills - UK Parliament](#)

<sup>13</sup> [The Release of Prisoners \(Alteration of Relevant Proportion of Sentence\) Order 2019 \(legislation.gov.uk\)](#)

<sup>14</sup> [Domestic Abuse Act 2021 \(legislation.gov.uk\)](#)

<sup>15</sup> Prison Population Projections 2021 to 2026

<sup>16</sup> [Court and tribunal recovery update in response to coronavirus - GOV.UK \(www.gov.uk\)](#)

- Around two thirds of the current prison estate were built in the Victorian era or in the mid-20<sup>th</sup> century (1940s-1970s). The age profile and design of these buildings makes them difficult to run modern prison regimes in and expensive to maintain. Accordingly, there is a need for renewal of the estate.
- Much of the existing prison estate is in poor condition due to high levels of backlog maintenance. HMPPS is investing £225m this financial year to improve conditions for prisoners and minimise the loss of cells as a result of either non-compliance or dilapidation, but this does not address the rising population forecasts and predicted capacity shortfall within the estate.
- Most of our existing estate cannot be enlarged as there is insufficient footprint to do so. Those establishments which have had sufficient footprint have been enlarged either by predecessor expansion programmes or are being expanded/planned for expansion as part of our current prison expansion projects and programmes.
- Some establishments crowd cells (as described in para 2.10 above) to manage population pressures. Crowding has led to knock on effects on levels of prisoner on prisoner violence, prisoner on staff violence and ill health of prisoners. Single cell accommodation is recommended by academics and practitioners to help reduce levels of violence and increase prisoner well-being.

3.8. The new prisons currently being proposed in Lancashire (Garth), Buckinghamshire (Grendon) and Leicestershire (Gartree) have been designed to hold prisoners in single cell accommodation in a secure environment, which enables the best delivery of a regime to address their offending behaviour and offer rehabilitation.

3.9. There are three elements of design that come together to make an effective operational prison:

- The **physical design** – this includes the site, building typography, size, physical features, materials and finishes; the function, look and feel of the physical environment.
- The **regime design** – this includes the services, activity and regime that would be suitable for the population enabled by the built environment.
- The **cultural design** – this includes the staff and prisoner relationships and the organisational culture.

3.10. By aligning these design elements, new prisons will significantly improve levels of safety for both prisoners and staff, appropriately punish and incapacitate prisoners for the crimes they have committed but at the same time give them the best chance to be rehabilitated and turn their lives around – ultimately, reducing crime and increasing public safety.

3.11. The maximum efficiency for construction cost and operation of a prison would be derived from a 6 or 7 houseblock prison (c1,450-1,715 places). The prison being proposed will comprise of seven houseblocks with a maximum capacity of 1,715 prisoners. Each of the 7 houseblocks will hold 245 prisoners. There will be four floors in each houseblock with around 60 prisoners on each floor (some floors will have slightly more than 60 prisoners and the ground floor slightly less than 60). Each house block has three wings per floor meaning that each wing holds approximately 20 prisoners. There is good evidence that holding prisoners in smaller groups such as these helps create a community spirit on the wing, reducing violence and offending behaviour.

3.12. The Prison Strategy White Paper<sup>17</sup> (CD/J2), 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. What this means in practice is building carefully designed prisons that:

- Have safety and security as foundational principles to reinforce a zero-tolerance approach to drugs, weapons and other illicit contraband: the new prison at Gartree will be equipped with security measures that contribute to cutting crime. This will include Enhanced Gate Security (X-Ray Body Scanners), biometric visitor identification and mobile phone blocking technology;
- Are designed to facilitate education and employment, rehabilitation, healthcare and purposeful activity by: providing spaces for one-to-one and group education and skills development; have workshops for training and employment; have IT in cells to facilitate access to resources; welcoming visitor centres for families, peer support and therapeutic activity, including to address substance misuse; and include association spaces and quiet areas, together with adequate spaces for work;
- Have accessible facilities for the growing population of older prisoners or those with specific health needs which affect their ability to engage with the daily regime - for example, accessibility will be a guiding principle, with 7% of all cells being wheelchair accessible;
- Use design features to support prisoners who have conditions such as learning disabilities, autism and ADHD or an acquired brain injury and;
- Are more sustainable - all future prison builds will be zero net carbon ready from day one.

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<sup>17</sup> Prison Strategy White Paper (December 2021)

## 4. Demand for prison places

### Calculation of demand for national prison places

- 4.1. MoJ calculate 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’<sup>18</sup> (CD/J6).
- 4.2. The custodial sentencing model is driven by projections of numbers of defendants convicted or sentenced in the criminal courts. To project volumes of people received into prison, it also considers:
  - The case type and court route defendants have come through;
  - The sentences which concluded cases attract; and
  - The proportion of sentences which lead to a prison reception.
- 4.3. The prison population projection model takes forecasts of offenders entering prisons and then models the amount of time offenders spend in prison to calculate the resulting prison population for each month of the projection period.
- 4.4. The projection model is based on latest available data from various sources including court proceedings and performance data and sentencing data. The latest offender management statistics are used to model prison receptions and population data.
- 4.5. The projections presented reflect the impact of the latest trends in sentencing, in the age band, sex, and offence of defendants entering the system and in the flow of defendants through the courts. Estimated impacts of changes to legislation and guidance which took place before August 2021 have been accounted for, along with policies included in the Police, Crime, Sentencing and Courts Act 2022, future parole hearing frequency and outcomes for indeterminate sentence prisoners.
- 4.6. Prison population projections are initially produced for separate sub-populations and then combined. In most cases, these population groups are projected by combining reception (inflow) projections over time, discharge (outflow) projections over time and the starting-point population, i.e. a stock-flow model. The reception projections come from modelling the flow of cases of particular types through courts, and then applying calculated ratios of court disposals (closed cases) that become prison receptions. The discharge projections are derived by applying time periods served in prison to the existing prison population and new receptions.
- 4.7. Assumptions for modelling are agreed through consultation with policy and operational experts at MoJ, HMPPS, Home Office and Crown Prosecution Service. The assumptions are based on analysis (where reliable data is available) and on expert judgement from stakeholders. The assumptions are therefore likely to be more robust for those measures and processes that are well defined.
- 4.8. The population projections have been published and refined annually since 2008 and are released with National Statistics status<sup>19</sup> meaning they meet the highest standards of trustworthiness, quality and public value.

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<sup>18</sup> Prison Population Projections 2021 to 2026

<sup>19</sup> [National Statistics – Office for Statistics Regulation \(statisticsauthority.gov.uk\)](https://www.statistics.gov.uk)

## National need for prison places

4.9. The total prison population is forecast to increase to a record high of 98,500 by March 2026<sup>20</sup> **(CD/J6)**. As of 2 September 2022, the operational capacity of the system is 83,381 places and the prison population is 81,245<sup>21</sup> **(CD/J10)**. The population has risen by over 2,000 since the beginning of the year<sup>22</sup> **(CD/J11)** and the system is currently operating at 97.5% capacity.

4.10. Action is therefore required to ensure that the supply of places is sufficient to meet this rising demand.

## National need for Category B Training places

4.11. Category B Training Prisons are a key building block of the prison estate. Their main function is to provide effective rehabilitation that develops an individual's capacity and motivation to change, reducing a prisoner's risks of harm and reoffending. It offers the opportunity to deliver a regime and services that are tailored to this specific group's needs, including the delivery of offender behaviour programmes and interventions which aim to change the thinking, attitudes and behaviours which may lead to reoffending. Prisoners in Category B Training Prisons are often serving very long sentences meaning there is sufficient time to deliver quality education, skills and work in these prisons before prisoners move on to resettlement prisons.

4.12. Latest modelling indicates a deficit in Category B Training places of around 1,400 places by July 2026, which I have detailed at para 5.7. Demand for prison population is not currently published beyond 2026, but increased police officer recruitment and Government policy to increase custodial sentences for serious offenders are likely to continue to add prison population pressure beyond the forecast period.

4.13. Category B demand is forecast by using the predominant prison function as published in 'Prisons and Their Resettlement Providers'<sup>23</sup> **(CD/J7)** and the 'Current Operational Capacity' from the July 2022 'Prison population Figures'<sup>24</sup> **(CD/J8)** to produce a split for 'Demand' and 'Operational Capacity by Cohort'. This is then applied to the 'Demand Projections', from the Prison Population Projections 2021 to 2026<sup>25</sup> **(CD/J6)** vs. 'Current Operational Capacity', to generate a 'Capacity Gap' for that year.

4.14. Category B represents some of our highest risk prisoners, who can only be held in prisons with the appropriate security infrastructure and resourcing. While it is of course undesirable to run out of accommodation for any cohort, these men represent some of our most serious offenders and there are constraints to managing deficits:

- They cannot be held in less secure conditions, so there are limited alternative options within the estate;
- Early release would endanger the public; and
- The increased risks these men pose to staff and other prisoners means that the majority require single cell accommodation. Re-purposing other prisons for

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<sup>20</sup> Prison Population Projections 2021 to 2026

<sup>21</sup> Population and Capacity Briefing for Friday 2 September 2022

<sup>22</sup> Population and Capacity Briefing for Friday 7 January 2022

<sup>23</sup> Prisons and their resettlement providers

<sup>24</sup> Prison Population July 2022

<sup>25</sup> Prison Population Projections 2021 to 2026

Category B means a disproportionate amount of lost capacity which would otherwise be used for shared occupancy.

4.15. Deficits in the Category B Training Estate are often managed by holding men in Reception prisons, which are also Category B standard. The main function of a Reception prison is to service the courts and hold a prisoner whilst they are being categorised and allocated to a prison. In August 2022 there were around 450 sentenced Category B prisoners held in reception prisons. This is not sustainable as the ancillary facilities and support services are inadequate to meet the needs of a Training cohort. Examples of this include mental health services, substance abuse services and access to training and education.

## 5. Meeting the need for new prison places

### National response - all categories

- 5.1. It is essential that we build capacity to respond to the forecast rise in prison population.
- 5.2. The Government announced in June 2020<sup>26</sup> 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). That commitment followed the Conservative Manifesto (2019) which confirmed the Government would 'add 10,000 more prison places, with £2.75 billion already committed to refurbishing and creating modern prisons'<sup>27</sup> **(CD/J3)**.
- 5.3. This objective was subsequently increased to provide 20,000 prison places by the mid-2020s as referenced in para 3.1. In February 2022<sup>28</sup> the Deputy Prime Minister announced that 4,000 expansion and refurbishment places would be delivered across 16 sites, subject to receiving planning permission. A further 6,000 places will be delivered through expansions, conversions and refurbishments across multiple sites, with the remaining 10,000 of the 20,000 places being delivered through the six new prisons. To date around 3,120 of the places have been delivered, including 1,680 places at the new prison, HMP Five Wells.
- 5.4. The current planning status of the 20,000 places is as follows:
  - c.11,000 places for which planning has been achieved or is not required (through permitted development).
  - c.4,000 places yet to receive planning permission (either awaiting decision or at early design/scoping stages).
  - c.5,000 places for which planning is refused and under appeal (including Gartree).

### Why expansions alone will not meet demand

- 5.5. Due to the age and site constraints of our existing prisons it would not be possible to deliver all the additional prison places through expansion alone. It would also not be the right long-term or best value for money solution. New modern prisons will provide better long-term value for money, increased sustainability and better opportunities to reduce reoffending.

### Supply of Category B places

- 5.6. Within the HMPPS estate we currently have around 7,500 Category B Training places for male prisoners and around 7,930 Category B prisoners. The plan described at para 5.3 to build 20,000 places includes 1,715 Category B Training places at the proposed new prison adjacent to HMP Gartree, 247 Category B Training places through a houseblock expansion at the existing HMP Gartree, which does not yet have planning approved, and 458 places at HMP Rye Hill which are built to a Category B standard but are likely to be needed to hold Category C prisoners.

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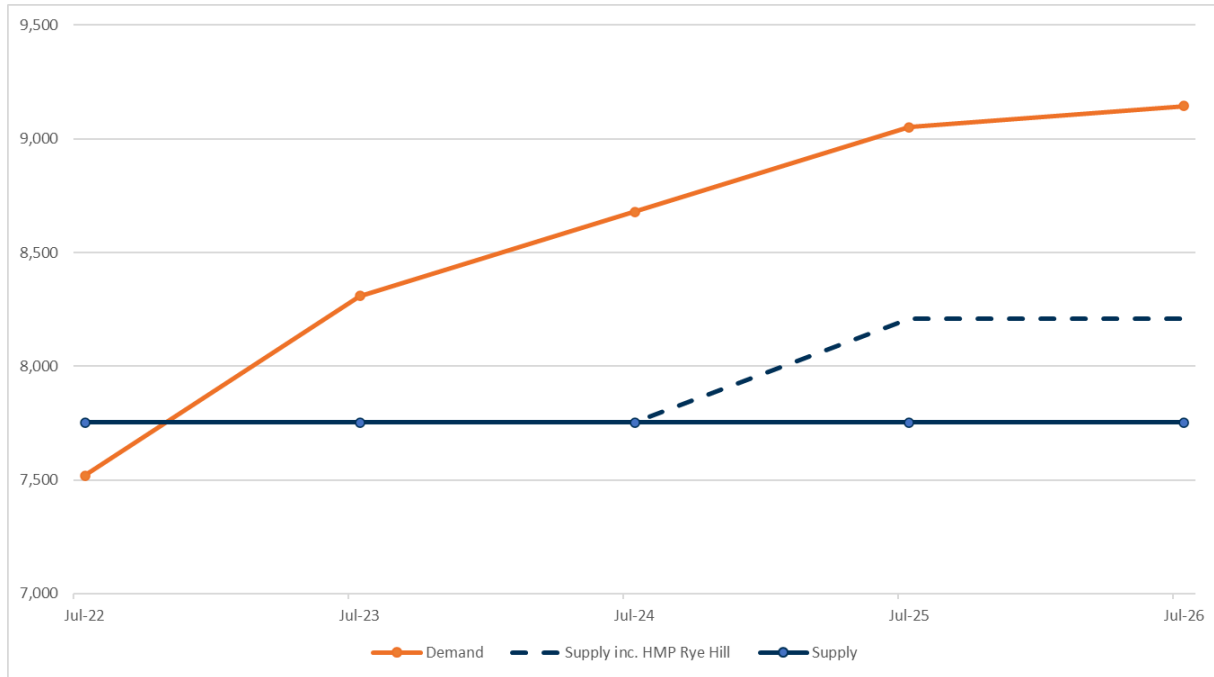
<sup>26</sup> [Four new prisons boost rehabilitation and support economy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/four-new-prisons-boost-rehabilitation-and-support-economy)

<sup>27</sup> Conservative 2019 Manifesto

<sup>28</sup> [Thousands of new prison places to rehabilitate offenders and cut crime - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/thousands-of-new-prison-places-to-rehabilitate-offenders-and-cut-crime)

5.7. The forecast increased in demand for Category B Training places shows there is a clear need for the new prison when it would be due to open in Q2 2027. Fig 1. shows a deficit of around 1,400 places in July 2026 based on the published data that I outlined in para 4.13 and the supply of Category B Training places for which we have planning approved.

Fig 1. Supply/Demand of Category B Training Places.



5.8. There is a risk that supply can be affected by dilapidations and maintenance projects which can mean prison places are taken out of use each year for maintenance work.



## 6. Benefits of delivering the scheme

- 6.1. The new Category B training prison will enable more prisoners to be in the right category and function of prison by addressing the deficit of Category B places. As I outlined in para 4.15, Category B prisoners are being held in reception prisons, which do not address their needs. The new modern, purpose built, Category B training prison, would provide the right environment and facilities for prisoners to address the causes of their offending behaviour. It will also give them the opportunity to engage in purposeful activity throughout their sentence and to develop job and life skills for their eventual reintegration to society on release. If we do not meet this need, prisoners will continue to be held in the wrong type of prison without appropriate resources to support rehabilitation and rates of reoffending will not decrease. The combined economic and social cost of reoffending has been estimated at £18.1 billion<sup>29</sup> **(CD/J24)** (based on a cohort of offenders identified in 2016 who subsequently went on to reoffend over a 12-month follow-up period) and so the opportunity presented by the proposed development to reduce reoffending rates is of significant value. A reduction in the number of reoffending prisoners held in a Category B Training Prison will save, on average, £50,367 per prisoner per year<sup>30</sup>.
- 6.2. As referred to in para 2.12, if we do not provide sufficient capacity in the prison system MoJ will have to postpone or interrupt maintenance work in the existing estate, increase levels of crowding, use police cells to temporarily hold prisoners overnight and ultimately release prisoners before the end of their sentences, as they did from June 2007 to March 2010 through the End of Custody Licence. This reduces HMPPS's ability to protect the public from offenders and harms public confidence in the Criminal Justice System.
- 6.3. The new Category B training prison will be adjacent to HMP Gartree, which is also a Category B Prison. This allows for added resilience and support as the prison is mobilised and the number of prisoners is gradually increased, to ensure operational stability and safety of both staff and prisoners. It allows for the flexibility to deploy staff to either prison in the case of an emergency, it increases the immediate tornado team capacity whose job it is to bring riots under control and it allows for people or gangs to be separated into two different establishments to diffuse any potentially volatile situations.
- 6.4. The design of the prison will create an environment that should lead to reductions in violence and self-harm and improve prisoner and staff well-being when compared to similar sized prisons in the existing estate. This is due to having smaller community sizes, single cell accommodation, eliminating blind spots, increased natural daylight and lower levels of noise. These design features also enable positive interactions between staff and prisoners which in turn can lead to a reduction in reoffending. Safety of both staff and prisoners will also be improved as the prison will be equipped with security measures such as X-Ray Body Scanners, biometric visitor identification and mobile phone blocking technology<sup>31</sup> **(CD/J2)**.
- 6.5. As outlined in para 3.11, the new prison at Gartree is designed to facilitate rehabilitation by providing spaces for education and skills development, workshops for training and employment, IT in cells to facilitate access to resources, welcoming visitor centres to maintain family ties and therapeutic activity, including addressing substance misuse. The prison will be more accessible than others in the estate, for

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<sup>29</sup> Economic and social costs of reoffending: Analytical report (Ministry of Justice, 2019)

<sup>30</sup> <https://www.gov.uk/government/publications/prison-performance-data-2020-to-2021>

<sup>31</sup> Prison Strategy White Paper (December 2021)

the growing population of older prisoners and those with specific health needs which affect their ability to engage with the daily regime<sup>32</sup>.

- 6.6. The proposed new prison at Gartree will comply with MOJ's sustainability policy<sup>33</sup> to ensure we transition to a lower carbon, more environmentally sustainable estate. The prison will be delivered in a way which supports the Government's commitment to improve the state of the environment and to be at net zero carbon by 2050. In operation, it reflects a c90% reduction in carbon emissions and c70% reduction in energy use when compared to the most recent new prison (HMP Five Wells). The construction of the new prison will be delivered in a way which minimises impact and provides over c20% biodiversity net gain compared to the MoJ target of 10%.
- 6.7. Through the construction of the new prison at Gartree, HMPPS will create opportunities for people, including ex-offenders and prisoners Released on Temporary Licence (ROTL), to be trained and upskilled in construction. HMPPS will also create opportunities for businesses, helping boost local economies. HMPPS's supply chain will deliver a wider economic boost, including to areas important to the Government's Levelling Up agenda. Targets include a minimum of:
- 20% spend within a 25-mile radius of the site
  - 40% spend within a 50-mile radius of the site
  - 25% employment within 50 miles of site
  - 25% of construction jobs given to former prisoners or those near to release
  - £50k spend with Voluntary, Community and Social Enterprises
  - 15 targeted events, such as job fairs and school visits
  - 1,750 Work placement Days
  - Monthly newsletters
  - Community engagement for residents living close to site, such as site tours
  - 50 new apprentice opportunities
- 6.8. The full economic benefits created by the scheme are covered in the Socio Economic Proof of Evidence **(CD/E4)** and in 'Economic Impact of a New Prison' **(CD/J1)**.

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<sup>32</sup> Prison Strategy White Paper (December 2021)

<sup>33</sup> [Ministry of Justice and the environment - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

## 7. Site search process

- 7.1. Whilst the MoJ does not accept that it has to demonstrate that there are no alternative sites that could accommodate the Appeal Scheme, I note that the MoJ has carried out a site search process on an ongoing basis throughout the development of its new prisons programme. Together with members of my team, I have prepared a factual summary of that process which appears as **Annex A** to this Proof. As a matter of fact, no alternative site to accommodate the Appeal Scheme has been identified.

## 8. Summary and conclusions

8.1. My Proof of Evidence has set out that:

- HMPPS is the agency responsible for keeping those sentenced to prison in custody and is responsible for the prison estate.
- Much of the prison estate dates to the Victoria era. The age and design of Victorian prisons makes them difficult to run modern prison regimes in and expensive to maintain.
- Category B training prisons fulfil an important role, to provide effective rehabilitation that develops an individual's capacity and motivation to change, reducing a prisoner's risks of harm and reoffending.
- There is a rising prison population driven by changes to sentencing and increased numbers of police, which is creating a national need for new Category B prison places.
- Modelling indicates a deficit in Category B Training places of around 1,400 places by July 2026.
- The Government has committed to deliver this additional capacity through a combination of new prisons and expansions. HMPPS's ability to expand existing prisons is limited and no suitable alternative site has been identified.
- If the demand is not met, Category B prisoners will likely be held in reception prisons which are not designed to meet their needs. Other options to manage excess demand, such as crowding, use of police cells and early release may also have to be considered, which carry their own operational risks.
- New prisons provide the best solution to improve levels of safety for both prisoners and staff; appropriately punish and incapacitate prisoners for their crimes and give prisoners the best chance to be rehabilitated.
- Through the construction of these new prisons, HMPPS will create opportunities for people including current and ex-offenders to be trained and employed in construction. HMPPS has also set out targets for constructors which will help boost local businesses and benefit the local economy and will provide ongoing economic benefits and local employment when the prison is operational.

8.2. I have clearly demonstrated that the national and local need for prison places would be met in part through the construction of a new prison at the site adjacent to HMP Gartree. I have also set out the risks of running out of prison places, alongside the benefits of prisoners serving their sentences in modern, fit for purpose prisons, both in terms of reducing their chances of reoffending and providing the best long term value for money.

**James Smith**

06 September 2022