**GARTREE ACTION**

**STATEMENT OF CASE**

*Appeal Ref APP/F2415/W/22/3300227*

**8 AUGUST 2022**

1. **INTRODUCTION**
	1. This Statement of Case has been prepared by Gartree Action (‘GA’) in relation to an appeal by the MoJ (‘MoJ’ or ‘the Appellant’). GA is acting as an ‘interested party’ under Rule 6(6) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, as amended. GA’s Rule 6 status was confirmed by the Inspectorate on 20 July 2022.
	2. GA is a volunteer group raising awareness of the proposal to build a second prison in the locality, adjacent to the site of HMP Gartree. The group represents residents from seven local parishes. GA seeks to represent local and community views regarding the proposed development. This community has lived with a prison in this area for nearly sixty years. There is no better understanding of the real-world operation and impact of a new prison than that of the residents and communities that live alongside existing prisons. GA’s objection is driven by concern for the effect that the development of a further substantial prison complex would have on the local landscape and community.
	3. The MOJ’s appeal to the Planning inspectorate has been made against Harborough District Council’s (‘the Council’) unanimous decision, exercising its role as the relevant Local Planning Authority (‘the LPA’), to refuse outline planning permission for a planning application (21/01600/OUT) for a development comprising the following:

*Outline planning application (All Matters Reserved except for means of access and scale) for the construction of a new Category B prison of up to 82,555sqm within a secure perimeter fence, together with access, parking, landscaping and associated engineering works.*

* 1. GA’s original objection to the planning application was submitted via the letter of 22 March 2022 from Armstrong Rigg Planning. That objection included an identification of a clear conflict with the development plan, and especially Policy GD3 ‘Development in the Countryside’ of the Harborough Local Plan 2011-2031 (‘the HLP’), and Policy LNP01 of the Lubenham Neighbourhood Plan (adopted May 2017) in respect of the ‘Area of Separation’ designed to preserve the distinctive character and separate identities of Lubenham and Gartree. In refusing permission, the Council ultimately concurred with this objection.
	2. The Application was determined by the Council’s Planning Committee at their meeting of 5th April 2022. A decision notice was issued by the Council on 7th April 2022 refusing permission for the sole following reason:

*The proposed development is unsustainable by virtue of its location and by virtue of its size, scale and design would have a harmful impact on the character and appearance of the countryside and Area of Separation. The benefits associated with the proposed development would not outweigh this harm and the proposal is therefore contrary to Harborough Local Plan policies GD1 & GD3 and Lubenham Neighbourhood Plan policies LNP01, LNP16 and LNP19.*

* 1. GA’s position is in line with the Council’s determination in that it supports the Reason for Refusal. At inquiry, where the Council’s evidence covers a point sufficiently, GA will not seek to adduce repetitive evidence and will, where appropriate, endorse the Council’s position. GA seeks to enhance the conduct of the inquiry with a streamlined representation of local concerns.
	2. This Statement of Case is structured into the following sections:
1. Introduction
2. Harms
3. Need and alternative sites
4. Other social, economic, and environmental benefits
5. Overall balance and conclusion
6. List of documents
7. Conditions
	1. This Statement of Case will summarise the reasons for opposition to the development, and the evidence GA will produce in support of this stance. GA reserves the right to present further evidence, data, or documentation to support or amend its stance in the light of emerging information. This Statement of Case for GA will utilise existing data from surveys and assessments commissioned by the Appellant, in conjunction with data from other public domain sources.
	2. GA will contend that the proposal is in conflict with the development plan, and that no material benefits are offered sufficient to weigh positively against what is a fundamental policy conflict. GA will demonstrate through its submissions and evidence that whilst there is an existing prison estate in this locality, the imposition of a second prison is not a sustainable option on this site. Landscape harm to the countryside and area of separation will result from the development. The material considerations advanced by the Appellant are insufficient to outweigh such harm and to justify a decision otherwise than in accordance with the development plan.
8. **HARMS**
	1. GA represents residents who are deeply concerned that the proposed development will have a range of negative impacts on the local community, both during the construction and operational phases, by virtue of the scale and nature of the proposal, which will more than double the built extent of Gartree village. Many residents are concerned about harms which extend far beyond those given in the LPA’s Reason for Refusal.
	2. GA will support the Council’s position that the proposed development is in clear conflict with the development plan. In combination, two elements particularly contribute to the proposal being an unsustainable development: (i) landscape harm and (ii) accessibility of the site.
	3. On landscape and visual matters, GA’s stance aligns with the Council’s position as set out in its Statement of Case, and GA intends to adopt and endorse the Council’s evidence.[[1]](#footnote-2) GA does not intend to duplicate expert evidence on this matter. Where it can usefully add to the evidential picture in other ways, it will seek to do so. GA is especially concerned that the proposal diminishes the Area of Separation, a designation introduced by the community into its now made Neighbourhood Plan to help sustain the individual identity of its villages and communities. The proposal will plainly not protect or enhance the appearance or distinctiveness of the local landscape area.
	4. On accessibility, GA’s evidence will seek to complement the Council’s position by demonstrating that the transport options to and from this rural location are unsustainable. GA will draw upon the Appellant’s trip generation data to contend that virtually all trips to and from the site will be made by car, many from some distance, and that this will impact local residents. GA will also demonstrate that alternative transport modes are not practical and that the rural bus service is not a suitable solution for commuters or visitors. GA will demonstrate that MoJ’s offer of £500,000 to support a bus service, and other sustainable transport ‘solutions’, are wholly inadequate. The unsuitability of the site from a sustainable transport perspective cannot be mitigated.
9. **NEED AND ALTERNATIVE SITES**
	1. Even at pre-application stage, the MoJ was advised that the site is contrary to local plan policy, and that justification was needed as to why the proposed prison is needed in this location. GA’s case is that Appellant has not provided any adequate justification to outweigh the substantial harms that would be caused by the proposed development on this site.
	2. GA notes that the Appellant’s principal case is that the need for and wider benefits of the proposals will outweigh any perceived harm: §5.2.
	3. There is no dispute that there is a criminal justice policy need for more prison places. GA accepts that there may be a specific national need for additional Category B prison places.
	4. GA intends to challenge the urgency and extent of the need for the new prison, of its type and in its locale, as identified by the Appellant. GA understands that it is the Appellant’s case that numbers in custody are projected to increase significantly in the 2020s; it will seek to show that the Appellant’s projections are not robust and are an overestimate of likely need.
	5. In any event, GA contends that the Appellant has not clearly shown that a need for a prison must be met by development on this site. GA contends that if the national need is accepted, then the prison could be built anywhere in the country. As such, the weight that can be afforded to the national need is highly dependent on the weight attached to the claimed lack of available sites.
	6. The MoJ's own assumptions for new prison builds in their modelling (Peter Brett Associates, Economic Benefits of a New Prison, 2013) are for non-rural locations, as urban/semi-urban locations are said to help staff retention and make visitor access easier, because of good sustainable transport links. Both are important factors when trying to run an efficient and effective prisons policy.
	7. The Appellant asserts that it has been demonstrated that there are no alternative sites nationally capable of accommodating the proposed development, nor is there capacity at any existing Category B training prison to enable a reduction in scale. However, the Appellant has provided no reference to future capacity projections *at all*.
	8. GA contends that the Appellant’s site selection is at least opaque, and potentially flawed. The site searches appear to have been informed by arbitrary high-level criteria, designed to make the selection of the MoJ’s own preferred sites a *fait accompli*.
	9. It may well be that when considered properly against the MoJ’s own search criteria, other sites performed better, or equal to, the Appeal site. Accordingly, GA intends to provide its own evaluation of the alternative sites considered by the MoJ. The MoJ must urgently provide the alternative site search shortlist and consideration; without that information, there is no basis to assert that no alternative sites are available, or to transparently scrutinise that assertion. GA also intends to consider the availability of other alternative sites.

1. **SOCIAL, ECONOMIC AND ENVIRONMENTAL BENEFITS**
	1. GA does not dispute that there are other social, economic, and environmental benefits to the proposed scheme. GA will challenge the extent of the benefits described by the Appellant, and the weight which should be attributed to these.[[2]](#footnote-3)
	2. GA will contend that the calculation or assessment of socio-economic benefits by reference to a 2013 report by Peter Brett Associates is problematic, given that report’s reliance upon data from non-rural prisons (and exclusion of further data from another prison based on its rurality). That must undermine the reliability of that study as a basis for assessing the likely benefits in this case. The Appellant’s calculations do not appear to consider the impact of building a large, unplanned facility in the open countryside. GA will argue that the socio-economic benefits of this facility may be more attainable elsewhere.
	3. GA will argue that the socio-economic benefits will be mainly national or regional, especially noting the approach to construction taken at other prisons.[[3]](#footnote-4) GA avers that whilst there is no prescription that socio-economic benefits must be localised, this factor goes to the weight afforded to such benefits in relation to this particular site. The building of a new prison is a highly specialised process, involving specialised skill sets and proprietary components which will chiefly be imported into the region. The Appellant’s own modelling and socio-economic statement indicates that of a construction workforce of 76, only eight would be local.
	4. In relation to the operational stage of the proposal, GA intends to provide evidence that local factors (such as Market Harborough’s housing stock) is not compatible with the notion of creating c.700 unskilled/low skilled jobs within the area. Rehabilitation of prisoners is highly dependent upon the availability of an appropriate workforce. Whilst the MoJ’s plans indicate that the operational employees will be drawn from a 40-mile radius, GA will demonstrate that both the current HMP Gartree and the proposed facility will be in direct competition with nine other HMP locations that hold c.20% of the total prisoner population of England and Wales.
	5. GA will contend that some of the benefits relied upon are self-evidently nothing of the sort, and should be discarded or given minimal weight in any planning balance exercise.
2. **PLANNING BALANCE AND CONCLUSION**
	1. GA notes that the Officer’s Report prepared in relation to this application weighed various aspects of the proposal in an overall planning balance. GA contends that the weighting exercise in the officer’s report resulted in the overstatement of various benefits and the understatement of harm (especially landscape harm). Even at that stage in the application process, the planning balance should have supported a recommendation of refusal.
	2. GA is concerned that the cumulative harms associated with this proposal are substantial. GA endorses the Council’s view that the proposal is in conflict with the development plan. It is common ground that the proposal is not compliant with HLP Policy GD3. GA will, among other things, contend that the initial officer’s report underestimated the landscape harm associated with the proposal.
	3. Weighed against those harms, GA acknowledges there are some social, economic, and environmental benefits of the proposed development, including a contribution toward an accepted national need for a Category B prison. GA intends to show that the extent of need for the development of a prison as proposed on this site has not been clearly demonstrated. In other respects, GA intends to challenge the extent of the stated benefits, and the weight afforded to them.
	4. Taken cumulatively, GA will argue that the benefits associated with this proposal have been over-emphasised and are outweighed by the specific harms of the proposed development (a significant prison complex) on this site (a rural site in an unsustainable location).
	5. GA supports the determination that the Council made in April 2022 and considers that the material considerations relied upon by the Appellant do not justify a decision otherwise than in accordance with the development plan. The appeal should be dismissed, and the refusal should be upheld.
3. **LIST OF DOCUMENTS**
	1. At the Inquiry, GA intends to rely on the following documentation and reserves the right to add to this list should other documentation become relevant up to the Appeal Inquiry:
	2. All documentation submitted with the planning application, including additional information submitted in response to consultation responses.
	3. All relevant correspondence between GA and other relevant parties prior to the submission and after the determination.
	4. The decision notice, Officer Report, and other documentation relevant to the appeal site.
	5. Additional documentation prepared in the light of matters raised in the Appellant’s and the Council’s Statement of Case, discussions with, or evidence submitted by others.
	6. Central Government guidance in the form of primary legislation, secondary legislation, Circulars, Ministerial Statements, Briefing Papers, Select Committee reports and any other relevant publications including but not limited to consultation papers, letters, advice, or as may become relevant.
	7. Adopted and emerging development plan policies including any supporting evidence including technical papers and supporting background documents, or as may become relevant.
	8. Sample Journey Times and local transport info (with bus/train options and times to get to HMP Gartree).
	9. Public Accounts Select Committee report, ‘Reducing the backlog in criminal courts’, March 2022 and other parliamentary/publicly available material relating to the same issue.
	10. Relevant information in the public domain or obtained through Freedom of Information requests including but not limited to population, employment, crime and justice, prisons and prisoners, and potential development sites.
	11. Residents’ statements
4. **LIST OF CONDITIONS**
	1. GA notes that the Appellant and the Council are due to agree a full list of conditions to provide to the Inspector, for consideration in the case that the appeal is allowed. GA reserves its position on conditions to which it would agree if the appeal were granted.

1. See §6.5-6.6 of the Council’s SoC. [↑](#footnote-ref-2)
2. As summarised at §5.4, Appellant’s SoC [↑](#footnote-ref-3)
3. As evidenced on approach set out on the Keir Group’s website: https://www.kier.co.uk/our-projects/hmp-five-wells/ [↑](#footnote-ref-4)