

STATEMENT OF COMMON GROUND

Between Gartree Action (Rule 6)
and the Ministry of Justice

Land to the South of HMP Gartree,
Market Harborough.

August 2022

LPA Ref: 21/01600/OUT
Appeal Ref 3300227

CONTENTS

1.	Introduction	3
2.	The Site and Surroundings	4
3.	Proposed Development	7
4.	Application Timeline	9
5.	Relevant Planning Policies and Guidance	10
6.	Matters Agreed	12
7.	Matters in Issue	15
8.	Planning Obligations	16
9.	Declaration	17

1. Introduction

1.1 This Statement of Common Ground (SofCG) has been agreed between the Ministry of Justice ('the Appellant') and the Gartree Action Group ('GA').

1.2 The development the subject of this Appeal ("the Appeal Scheme") relates to the following description of development:

Outline Planning Application with all matters reserved except for means of access and scale for the construction of a new Category B prison of up to 82,555sqm GEA within a secure perimeter fence together with access, parking, landscaping and associated engineering works, Land Adj HM Prison, Welland Avenue, Gartree.

1.3 The Appeal is made against the decision of Harborough District Council's (HDC) Planning Committee to refuse planning permission at their meeting on 5th April 2022, contrary to their officer's recommendation. The decision notice was issued on 7th April 2022.

1.4 The application was refused for the following reason:

1. 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.

2. The Site and Surroundings

- 2.1 The Site comprises 28.9ha of land to the south of HMP Gartree. The red line boundary the subject of the Appeal is shown at Figure 1 with the remaining land in the Appellant's control edged blue.

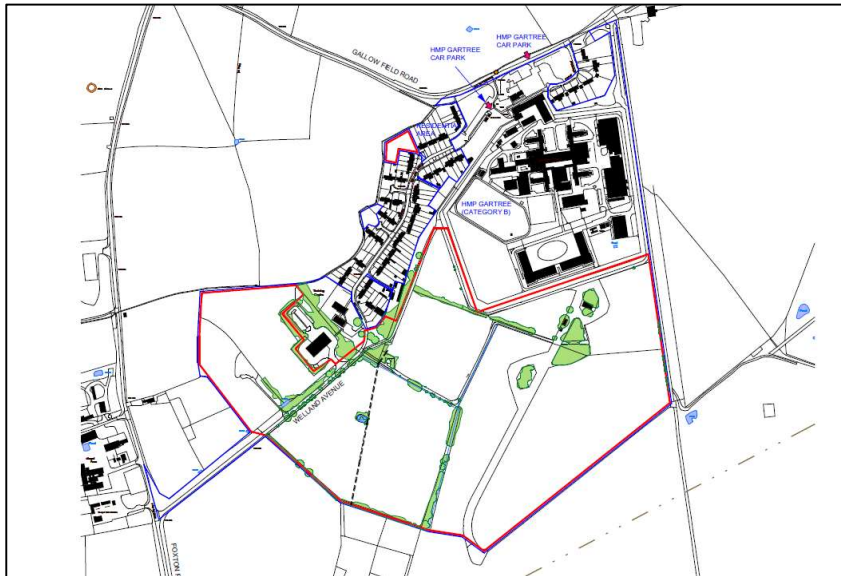


Figure 1: Site Area

- 2.2 The Site and adjacent existing prison are situated on land which was formerly part of RAF Market Harborough.
- 2.3 There are no listed buildings on the Site or in close proximity to it. The Site is not in a conservation area nor does it include or form part of a Scheduled Monument. The Site is not a designated nature conservation site (i.e. SSSI, local nature reserve).
- 2.4 The Site is not within a Coal Mining Reporting Area.
- 2.5 The Site is within flood zone 1.

New Prison

- 2.6 The Appeal Scheme will be located on land to the south, south west and west of HMP Gartree. The Site comprises 3 land parcels (See Figure 2 p5). Parcel 1 comprises farmland to the east of Welland Avenue, Parcel 2 is open space to the north west of Welland Avenue and Parcel 3 is an area of existing open space.
- 2.7 The land to the south of HMP Gartree and east of Welland Avenue (Parcel 1) is currently in use as farmland with isolated trees and hedgerows. There is a beck running through the Site. To the east is an internal access road leading to the existing prison with farmland beyond this. To the south of Parcel 1 is farmland and to the west is Welland Avenue (with land parcel 2 beyond this) and Gartree – a collection of houses formerly in MoJ's ownership and connected to HMP Gartree but now in private ownership. Otherwise, there are no shops, services or amenities in Gartree.
- 2.8 The land parcel to the north west of Welland Avenue (Parcel 2) is open space used informally for recreation by the residents of Gartree. To the east of this land is a large storage depot

(related to HMP Gartree) with the former Prison Officer's Club and training facility beyond this. To the north is a public footpath (to be retained) and to the west is farmland.

- 2.9 Parcel 3 comprises a small parcel of land within the Gartree Estate. This land has been identified as having potential for an informal play space/recreational space for the estate and is included in the red line boundary for the Site.



Figure 2 – Land Parcels

- 2.10 The Site is situated in the countryside approximately 5.1km north west of Market Harborough via road. Junction 20 of the M1 is approximately 18.3km to the south west of the Site via road.
- 2.11 The closest railway station to the Site is Market Harborough (5.7km). This provides mainline services to London and the south east as well as the midlands and north. There is a bus service from Market Harborough Railway Station to HMP Gartree.

Planning History

- 2.12 HMP Gartree opened in 1965. The applications of relevance to the Appeal are set out in Table 1 below.

Application Reference	Validation Date	Description of Development	Date of Decision	Decision
21/02128/FUL	6/12/21	Erection of a 4 storey houseblock for up to 247 prisoners, 2 storey workshop, extension to segregation unit, kitchen extensions, extension to sports hall, MUGA pitch and extension to existing staff car park (59 spaces), HM Prison, Welland Avenue, Gartree.	N/A	Application withdrawn.
08/00149/GOV	01/2/08	Modernisation of existing	28/03/08	Approved

Application Reference	Validation Date	Description of Development	Date of Decision	Decision
		accommodation block (D Wing) revised scheme of 07/00128/GOV.		
07/00128/GOV	25/1/07	Erection of a 4 storey extension to accommodation block	14/06/07	Approved
05/01803/GOV	29/11/05	Erection of single storey extension to visitors centre, extension to existing staff car park, construction of visitors car park, erection of extension to sports hall (revised scheme of 04/01148/GOV)	17/1/06	Deemed Approval
04/01148/GOV	13/7/04	Erection of additional ancillary buildings including two storey visitors centre/staff locker building, two storey extension to sports hall, extension to stores, new garage, new two storey education/workshop, new single storey kitchen building, two storey extension to administration building, creation of new visitors car park and replacement of existing perimeter wall with a double fence line.	7/9/04	Approved
02/00883/GOV	04/9/03	Erection of additional living accommodation (revisions to 02/00883/GOV),		No Decision Issued
02/00883/GOV	10/6/02	Erection of additional living accommodation.	2/8/02	Approved

Table 1 – Planning Application History

3. Proposed Development

3.1 This section summarises the Appeal Scheme.

3.2 The Application was submitted in Outline with the following description of development:

Outline Planning Application with all matters reserved except for means of access and scale for the construction of a new Category B prison of up to 82,555sqm GEA within a secure perimeter fence together with access, parking, landscaping and associated engineering works, Land Adj HM Prison, Welland Avenue, Gartree.

3.3 The new prison will be located on land to the south of HMP Gartree.

3.4 The new prison will consist of a number of buildings as follows:

- An Entrance Resource Hub (ERH), comprising visitor facilities and administrative space;
- A support building, providing space for administrative and FM functions;
- A central service hub, providing educational, health, multi-faith and staff facilities;
- A kitchen block;
- 2 x workshop buildings;
- A care and separation unit (CASU); and
- 7 x 'T60' houseblocks, each with a capacity of up to 245 prisoners.

3.5 The application proposes a maximum floorspace amount of 82,555sqm (GEA). This is expected to be provided across 14 buildings, laid out as suggested on the Indicative Site Layout Plan. The total floorspace has been calculated as the GEA of each building.

3.6 The indicative building parameters are shown in Table 2 (below), and these, alongside the indicative site layout, has formed the basis for various technical assessments presented in support of the planning application.

Building	Number of buildings proposed	Indicative Building Parameters	
		GEA (sqm)	Storeys
Entrance Resource Hub (ERH)	1	4729	3
Support Building	1	797	2
Central Services Hub	1	5668	2
Kitchen	1	2393	2 (with mezzanine)
Workshops	2	13,308	2
Care and Separation Unit (CASU)	1	1125	1
Houseblocks	7	53,122	4
Total	14	81,143	

Table 2 – Indicative Floorspace Areas.

3.7 The Site is broadly split into the public zone and the secure area. The public zone comprises the car parking area and pedestrian access points up to the entrance plaza outside the ERC.

3.8 The secure compound area of the Site will be enclosed by a perimeter fence extending to 5.5m high (comprising 5.2m high fence and 0.3m dennet (razor) wire at the top of the fence). The

fence will comprise a steel post and weldmesh panel fence with 2.4m high steel sheeting in an inner concrete apron.

- 3.9 CCTV cameras will be mounted on columns inside the secure perimeter.
- 3.10 The ERH forms part of the external secure line and includes the gatehouse that monitors vehicles entering the secure compound including prisoner transfers and deliveries to the facilities on site such as the kitchen or workshop. There will be various internal fences and gates separating buildings and creating zones within the secure compound.
- 3.11 The Site access point will be located off Welland Avenue. The entrance has been designed to ensure suitable visibility splays are achieved for all vehicles likely to visit the Site. The position of the access on Welland Avenue has been sited away from the Gartree estate to reduce impacts from vehicular traffic.
- 3.12 The car park for both staff and visitors will be located in front of the ERH. It will provide 523 parking spaces, which has been calculated on the basis of assumptions over staff and visitor numbers based on evidence from other facilities as well as consideration of shift patterns, the availability of public transport and anticipated modal split amongst staff.
- 3.13 The car park will include 16 accessible car parking spaces located close to the entrance building, 53 electric vehicle charging spaces and 27 spaces set aside for car sharing users.
- 3.14 A 51 space covered cycle parking area will be positioned on the plaza outside the entrance building.
- 3.15 The wider red line boundary includes land to the north of Welland Avenue which will be used for an area of biodiversity net gain enhancement. This ensures that the Site provides all of the land required for compensatory ecological enhancement.

4. Application Timeline

- 4.1 The Appellant commenced working on a proposed development scheme at the site in 2020. An initial briefing was held between the Appellant and senior stakeholders at HDC in July 2020.
- 4.2 A formal pre-application request submitted later in August 2020, a meeting was held on 25th September 2020 and a written response received on 9th October 2020. Extensive pre-application discussions were held with the planning officer and technical officers (highways, ecology, landscape). Full details of the engagement and advice received is contained within the submitted Statement of Community Involvement.
- 4.3 Further meetings were held with political and other stakeholders between June and August 2021.
- 4.4 Engagement with the public took place from 28th June – 2nd August 2021. Feedback received is summarised in the Statement of Community Involvement, and informed the design process where appropriate.
- 4.5 The application was submitted on 10th September 2021. It was registered on 20th September 2021. It was provided with reference number 21/01600/OUT.
- 4.6 A formal EIA screening exercise has been undertaken with the LPA to confirm that the development proposal does not require an EIA to be undertaken to support the application. The screening request was submitted on 9th December 2020. HDC issued its decision on 8th February 2021 confirming that the application did not comprise EIA development
- 4.7 The application was supported by a suite of documents and plans, with additional material submitted to HDC during the determination period. **Appendix 1** to the Appellant's Statement of Case lists the submitted documents and drawings, noting their date of submission.
- 4.8 During the determination of the application, a number of additional reports were submitted to provide more information on the agricultural land classification of the Site and the outcome of protected species surveys. An additional technical response in respect of an independent review of highways advice (commissioned by HDC) was submitted on 8th February 2022.
- 4.9 A further public engagement exercise was undertaken prior to determination of the planning application to provide an additional opportunity for interested parties and stakeholders to engage with the project team. Events were held throughout March with public exhibitions at Foxton Village Hall (10th March 2022), HDC's offices (11th March 2022) and Lubenham Village Hall (17th March 2022).
- 4.10 The application was heard at HDC's Planning Committee on 5th April 2022, with the officer's report (OR) recommending the application for approval subject to completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 ('the 1990 Act').

5. Relevant Planning Policies and Guidance

- 5.1 The appeal proposal should be determined in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that an application for planning permission shall be determined in accordance with the development plan unless material considerations indicate otherwise.

The Adopted Development Plan

- 5.2 The statutory development plan comprises the following documents:
- Harborough Local Plan 2011-2031(HLP) (2019).
 - Lubenham Neighbourhood Development Plan (LNDP) (2017).
- 5.3 HDC has begun working towards the preparation of a new Local Plan for Harborough and issued an initial call for sites winter 2021. The Local Plan preparation is therefore at a very early stage.
- 5.4 The Site is located in the open countryside outside of any settlement boundary. It is agreed that land parcels 2 and 3 (see Figure 2, p5) are allocated for open space under Policy GI2. It is agreed that part of the application site (land parcel 1) is identified as being within the Lubenham and Gartree Area of Separation as defined in the LNDP Policy LNP01.
- 5.5 The following policies are relevant to the determination of the proposed development:

Harborough Local Plan

- Policy SSI: Settlement Hierarchy
- Policy GD1: Sustainable development.
- Policy GD2: Settlement Development
- Policy GD3: Development in the Countryside.
- Policy GD5: Landscape setting and character.
- Policy GD6: Areas of Separation
- Policy GD8: Design.
- Policy HC1: Heritage Assets
- Policy GI2: Open Space.
- Policy GI15: Protected Species.
- Policy CC1: Mitigating climate change.
- Policy CC3: Flood Risk.
- Policy CC4: Sustainable Drainage Systems.

- Policy IN2: Existing Transport Facilities

Lubenham Neighbourhood Development Plan

- Policy LNP01: Lubenham and Gartree Area of Separation.
- Policy LNP16: Proposals for new business/employment development.
- Policy LNP19: Gartree

Other Material Considerations

National Planning Policy Framework and Guidance

- 5.6 The Framework (2021) is a material consideration in the plan making and decision-taking process.
- 5.7 The following sections are of particular relevance to the determination of the Appeal:
- Section 2 – Achieving sustainable development
 - Section 8 – Promoting healthy and safe communities
 - Section 9 – Promoting sustainable transport
 - Section 15 – Conserving and enhancing the natural environment
- 5.8 It is agreed that the associated Planning Practice Guidance (PPG) and any succession documents are relevant.

6. Matters Agreed

Open Countryside

- 6.1 The Site is within the open countryside and part of the site falls within the Lubenham Area of Separation (but is not within the Green Belt). It is agreed that the proposals are therefore contrary to HLP Policy GD3.

Need for the Development

- 6.2 It is agreed that the Government projects that the prison population to increase over the next ten years. The MoJ is therefore seeking to deliver additional prison places through the refurbishment and expansion of existing prisons, and construction of new prisons.
- 6.3 The proposed prison is one of four new prisons which will help to address the forecast increased demand for prison places. It is agreed that where new prisons are delivered they should be distributed across the country at the most appropriate locations in order to best target the areas of greatest forecast demand.
- 6.4 It is agreed that the MoJ has identified a specific national need for new Category B (training) prison places.

Socio-Economic Benefits

- 6.5 It is agreed that the proposal will have an overall positive socio-economic impact whilst operational and during construction.

Design

- 6.6 It is agreed that whilst layout and appearance are reserved matters for the new prison, the illustrative site layout reflects the necessary functional form of the proposed development.

Landscape and Visual Impact

- 6.7 It is agreed that:
- The appeal site is not subject to any national landscape designations.
 - The appeal site does not comprise a valued landscape for the purposes of paragraph 174 (a) of the NPPF.
 - The locations of viewpoints set out in the LVIA were agreed with local authority officers.
 - The appeal site does not itself adjoin the settlement boundary of Market Harborough or Lubenham and as such the proposed development would not physically unify the settlements.
 - The appeal proposals will not directly impact the Special Landscape Area located outside of Harborough District's boundaries to the south.

Transport and Access

- 6.8 It is agreed that the Committee Report gave limited weight to the potential impacts of the proposal in highways terms. It is agreed that highway access and parking issues do not form part of HDC's reason for refusal.

Noise, Vibration and Residential Amenity

- 6.9 It is agreed that noise, vibration and residential amenity issues do not form part of HDC's reason for refusal.

Air Quality

- 6.10 It is agreed that the Committee Report gave limited weight to the potential impacts of the proposal on air quality (at paragraph 7.11 of the Committee Report). It is agreed that air quality issues do not form part of HDC's reason for refusal.

Sport and Recreation

- 6.11 The proposed development will provide:
- 3 x MUGA Pitches for the use of prisoners.
 - 1 x full sized Football Pitch for the use of prisoners.
 - Retention and enhancement of existing recreational space (land parcels 2 and 3 outside of secure prison boundary, see Figure 1 p5) to provide informal recreation area (parcel 2) and children's play area (parcel 3) in accordance with HLP Policy GI2.
- 6.12 The proposals will not involve the loss of any sports pitches or recreational open space and as such, Sport England has confirmed that they have no objections to the proposals.

Ecology and Arboriculture

- 6.13 It is agreed that Biodiversity Net Gain can be delivered onsite, ecological and arboricultural issues do not form part of HDC's reason for refusal.

Flood Risk and Drainage

- 6.14 It is agreed that the Committee Report gave limited weight to the potential impacts of the proposal flood risk (at paragraph 7.10 of the Committee Report). It is agreed that flood risk and drainage issues do not form part of HDC's reason for refusal.

Heritage

- 6.15 It is agreed that relevant heritage assets to consider the impact upon comprise the following:
- Inclined plane immediately east of Foxton Locks – Scheduled Ancient Monument (Ref: 1018832);
 - Foxton Lodge – Grade II (ref: 1061464);
 - Langton Farmhouse – Grade II (ref: 1188013);
 - Manor Farm – Grade II (ref: 1360741);
 - The Old Vicarage – Grade II (ref: 1061478);
 - Grand Union Canal Conservation Area (Designated: 2000);
 - Foxton Conservation Area (Designated: 1975);
 - Lubenham Conservation Area (Designated: 1975), and;
 - Market Harborough Airfield (HER Ref: MLE15969).

- 6.16 It is agreed that there is therefore no need to undertake a balancing exercise as per the requirements of the Framework as no harm is caused to the significance of a designated heritage asset.

Archaeology

- 6.17 An archaeological assessment was undertaken and submitted with the planning application on 10th September 2021. Following feedback from the County Archaeologist, a geophysical survey was undertaken and following this a written scheme of investigation was submitted to provide trial trenching (56 trenches in total).
- 6.18 It is agreed that the findings of these subsequent surveys (detailed in the Archaeological Evaluation Report dated 25 January 2022) are accepted and that any further archaeological works required can be addressed by planning condition (as confirmed by the County Archaeologist).

Ground Conditions

- 6.19 The submitted Phase I & II Geo-environmental Site Assessment did not identify any contamination that cannot be suitably controlled via mitigation measures.

Agricultural Land

- 6.20 The submitted Agricultural Land Classification survey identifies that the Site contains no Grade 1 or 2 agricultural land. Under the Site climatic conditions, all areas form agricultural land of subgrade 3b quality. Issues relating to agricultural land classifications do not form part of HDC's reason for refusal.

7. Matters in Issue

7.1 There is disagreement between the Appellant and the GA as to:

- The level of harm to the Countryside and Area of Separation and Gartree Estate resulting from the development.
- Whether the benefits of the development are sufficient to outweigh any harm to the countryside.
- The extent to which the proposals constitute sustainable development.

8. Planning Obligations

- 8.1 It is agreed that there is a requirement for an agreement under Section 106 of the 1990 Act in order to make the development acceptable.
- 8.2 A final agreed S106 agreement will be submitted before the start of the Inquiry.
- 8.3 The S106 agreement is expected to include the below items which are considered to comply with the tests set out at paragraph 57 of the Framework:
1. Contribution towards provision of an enhanced bus service
To pay to Leicestershire County Council a financial contribution to enhance local bus services (£500,000) subject to agreement with Leicestershire County Council.
 2. Appraisal and monitoring of the Travel Plan
To implement and monitor the success of the travel plan including a financial contribution for Leicestershire County Council Travel Plan monitoring (£6,000).
 3. Contribution towards improvements to footpath A22.
To pay to Leicestershire County Council a financial contribution of £102,898 for improvement works to footpath A22.
 4. Monitoring of the Biodiversity Net Gain
To implement and maintain the proposed biodiversity net gain enhancements.
 5. Construction Traffic Routing Arrangements
To provide details of construction traffic routes and arrangements.
 6. Social Value
To agree a scheme of social value (including local labour targets) with HDC.
 7. Community Engagement
To agree a scheme for effective onward community engagement.

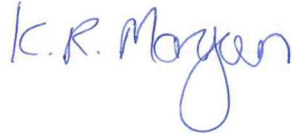
Conditions

- 8.4 A draft schedule of conditions was included in the Addendum to the Officer's Report to Planning Committee, which had been subject to discussion between the Appellant and HDC prior to the Planning Committee.
- 8.5 This list of conditions will be further refined and agreed for the Inspector's consideration in advance of the Inquiry.

9. Declaration

- 9.1 This is an agreed Statement of Common Ground between the Ministry of Justice and Gartree Action.

Signed by:



Katharine Morgan (Cushman & Wakefield)

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On behalf of the Ministry of Justice

And:



Geoff Armstrong, Armstrong Rigg Planning

On behalf of Gartree Action