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**TOWN AND COUNTRY
PLANNING ACT 1990**

**Appeal by
Ministry of Justice**

**Adjacent to Her Majesty's
Prison, Welland Avenue,
Gartree**

September 2022

**PROOF OF EVIDENCE
on behalf of
Harborough District Council**

**Prepared by
Jonathan Weekes
BSC (hons) MA TP MRTPI**

**PINS Reference
APP/F2415/W/22/3300227**

**LPA Reference
21/01600/OUT**

***AITCHISON
RAFFETY***



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1. INTRODUCTION

- 1.1 My name is Jonathan Weekes and I am the East Midlands Regional Director at Aitchison Raffety, Chartered Town Planning Consultants. I am instructed by the Local Planning Authority (LPA), Harborough District Council ('the Council'), in respect of this appeal. It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990 in respect of land north of Station Road, Market Bosworth.
- 1.2 I have an Honours Degree in Physical Geography, a Masters in Town Planning and am a Member of the Royal Town Planning Institute.
- 1.3 I have 19 years' experience in private practice in planning and development management matters. I have acted on behalf of major house builders, private individuals, local authorities, Parish Councils, and resident groups on a wide spectrum of planning work for both major and minor residential, employment, commercial and mixed-use schemes. This has included involvement with Hearing and Inquiry appeals both for private clients and local planning authorities.
- 1.4 I will present evidence on planning matters in respect of this appeal. This Proof of Evidence is to be read in conjunction with the evidence prepared by Simon Neesam, The Landscape Partnership, in respect of landscape and visual effects matters. I have considered Mr Neesam's expert professional judgements in my assessment of the planning merits of the proposal. I have visited the Site as part of my preparation for the appeal.
- 1.5 The evidence that I have prepared and provide for this appeal in this Statement is true and has been prepared and is given in accordance with the guidance of my professional institution, The Royal Town Planning Institute. I confirm the opinions expressed are my true professional opinions.

2. APPEAL SITE AND PROPOSED DEVELOPMENT

- 2.1 The appeal site is predominantly flat with a gentle slope on the west side. The site comprises agricultural fields. The current HMP Gartree is constructed to the north of the appeal site, with access taken off Welland Avenue. It was constructed in the 1960s originally as a Category C prison, but was subsequently upgraded to a Category A prison. More recently, it has been operated as a Category B prison.
- 2.2 The appeal site is split into three parcels. Parcel 1 will encompass the main prison site and is located to the south and east of the existing Gartree Prison and Welland Avenue, with the latter providing a number of private residential properties (formally owned by the Ministry of Justice in association with the prison). Parcel 1 is currently farmland with isolated trees and hedgerows. There is a brook running through the site, which is proposed to be diverted. The proposal will create a new Category B Prison for 1,715 prisoners within seven new four storey blocks. A number of buildings and spaces are proposed as part of this development, as follows:

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	13308	2
Care and Separation Unit (CASU)	1	1125	1
Houseblocks	7	53122	4
TOTAL	14	81,143	-

- 2.3 The submission proposes a maximum floor area of 82,555 sqm (GEA). Other development proposed includes kennels, polytunnels, car parking for circa 523 spaces, bicycle parking, and internal road layout, perimeter fencing, lighting and landscaping. The perimeter fence is proposed to be 5.2 metres high, with a 0.3 m section of razor wire above (combined height

5.5 metres) and the maximum height of the proposed buildings is 17.5 metres, for the proposed houseblocks. This proposal has been named 'Gartree 2'.

- 2.4 Parcel 2 is open space used informally for recreation by residents of the neighbouring settlement Gartree. The land parcel is to the north-west of Welland Avenue and set adjacent to 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 which is to be retained, and to the west is farmland. It is proposed that this will form a landscaping and ecological area.
- 2.5 Parcel 3 comprises a small parcel of land within Gartree. It is located to the north of Welland Avenue, Gartree and is adjoined by housing on three sides and countryside to the fourth (north-west). It is laid to grass and has an informal public open space use. It is proposed to be improved with play spaces and facilities for use by residents of Gartree.
- 2.6 The layout is indicatively shown on Proposed Site Block Plan (CD A2).

3. CONSIDERATION OF THE PROPOSAL BY THE COUNCIL

- 3.1 The application was validated by the Council on 20th September 2021 and was reported to planning committee on 5th April 2022. The decision notice was issued on 7th April 2022.
- 3.2 The Committee report (CD A72), published with the Planning Committee agenda, included a recommendation for approval, subject to a Section 106 Legal Agreement to secure the identified obligations, and planning conditions. A Late Items Addendum to the Committee Report was also presented (CD A73), covering the additional comments provided by a Harborough District Councillor, Parish Councils and local objectors, responses to these comments by the now Appellant, and comment from the Planning Officer on these matters. The Committee resolved to refuse the application, contrary to planning officer's recommendation. A decision notice was issued citing one reason for refusal (CD A75).
- 3.3 The Case Officer's report included a recommendation for approval. The Committee disagreed, after having undertaken their own planning judgment.
- 3.4 The Committee identified (as recorded in the RfR) that due to its location in the countryside, the site was considered to be an unsustainable location for development and that it would harm the character and appearance of the area. The benefits associated with the proposal were considered to not outweigh the harm. Policies for the Harborough Local Plan and Lubenham Neighbourhood Development Plan were cited as part of the reason for refusal.

4. THE DECISION-TAKING FRAMEWORK: THE DEVELOPMENT PLAN AND NATIONAL PLANNING POLICY

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2 The adopted Development Plan for the purposes of this appeal consists of the Harborough Local Plan (HLP) (adopted 2019) and Lubenham Neighbourhood Development Plan (LNDP) (made 2017).
- 4.3 The Statement of Common Ground (SoCG) between the Appellant and Council lists all the main policies which are relevant to this appeal (Paragraph 5.5). These are noted as being:

Harborough Local Plan

- Policy SSI: Settlement Hierarchy
- Policy GD1: Achieving 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

4.4 The Development Plan is silent on the provision of new prisons. However, the proposal conflicts with a number of planning policies, justifying the refusal of the proposal. My Proof will discuss this in further detail in the later sections.

4.5 The decision notice identified conflict with Policies GD1 & GD3 of the Harborough Local Plan and Policies LNP01, LNP16 and LNP19 of the Lubenham Neighbourhood Development Plan. These policies cover the following key issues:

- Sustainability of the location for development; and
- Harm to the countryside and Area of Separation designations

4.6 These matters are addressed under Section 5, Main Issues. In particular, I shall examine the Neighbourhood Plan policies and the value placed by the community upon the protection of the local character and landscape of the settlement. In addition, the need for a new prison in this specific location will be considered, along with the planning balance of benefits and harm resulting from the proposal, including economic need.

4.7 Supplementary guidance and documents produced by the Local Planning Authority are also a material consideration. These are set out in Section I of the Core Documents and include Landscape Character Assessments and Landscape Sensitivity Assessments.

4.8 The National Planning Policy Framework (NPPF) (2021) is a material planning consideration to the appeal proposal. Relevant paragraphs include, but are not limited to:

- | | |
|----------------|--|
| • 2, 12 and 47 | Primacy of the development plan |
| • 3 | The NPPF should be read as a whole |
| • 7 and 8 | Sustainable development |
| • 11 | Presumption in favour of sustainable development |
| • 14 | Compliance with Neighbourhood Plans |
| • 15 | Plan-led system |
| • 84 and 85 | Supporting a prosperous rural economy |
| • 92 | Safe places |

- 96 Delivery of public service infrastructure
- 104 – 105; 110 – 111 Highways and safety
- 126 and 129 Design and layout
- 174 Conserving and enhancing the natural environment
- 219 Policy weight

4.9 The Planning Practice Guidance (PPG) expands upon the contents of the NPPF and forms a further material planning consideration. The following sections are considered of particular relevance to this appeal:

- Natural environment
- Light pollution
- Use of planning conditions
- Sequential assessment

5. PRISON EXPANSION PROGRAMME

- 5.1 The Government has committed to a prison expansion programme to meet a growing need. 18,000 additional prison places are proposed through a portfolio of programmes and projects, including the 10,000 Additional Prison Places Programme, first announced by the Prime Minister in August 2019 (CD J12).
- 5.2 The Government announced in June 2020 (CD J13) that four new prisons would be built across England over the next 6 years. This was noted to be in addition to the construction work already underway at Wellingborough, Northamptonshire and Glen Parva, Leicestershire (now named HMP Fosse Way), for two new 1680 place Category C resettlement prisons.
- 5.3 A further Government press release in October 2020 (CD J14) announced that expansion works to four prisons is proposed to create an additional 930 places. These are to be provided at HMP Guys Marsh (Dorset) (180 places), HMP Rye Hill (Warwickshire) (462 places), HMP Stocken (Rutland) (206 places), with a new workshop proposed at HMP High Down (Surrey), enabling conversion of existing spaces to create 90 extra places. This press release also states that in respect of the four new prisons, a new jail will be constructed at HMP Full Sutton and that *"work is underway to identify sites in the North-West of England and the South-East"*.
- 5.4 A press release in February 2022 (CD J15) confirmed that 16 prisons across England would be expanded through new houseblocks and refurbishments which combined would account for more 4,000 new prison places. This expanded upon the October 2020 press release, noting 8 Prisons will receive new houseblocks, plus a new workshop at HMP High Down, whilst 7 other prisons would receive comprehensive refurbishments. Sites due to receive additional houseblocks are HMPs Bullingdon, Channings Wood, Elmley, Highpoint, Hindley, Wayland, Guys Marsh, High Down (in the form of a workshop) and Stocken; The 7 refurbishment sites are HMPs Norwich, Feltham, Aylesbury, Haverigg and Swinfen Hall, Liverpool and Birmingham. Four have already been completed.
- 5.5 The drive to provide additional prisoner places continues, with public consultation announced in August 2022 (CD J16) for an expansion to HMP Fosse Way by around 250 places; this prison has yet to open. Public consultation for the provision of two 1,715 place prisons on the former

RAF Wethersfield, near Braintree, Essex was also undertaken in September 2021. This is intended to provide a Category B and a Category C prison (CD J17).

5.6 In terms of the *selected* sites for new prisons, planning applications have been submitted for the four sites:

- Adjacent to HMP Full Sutton, East Ridings of Yorkshire: 1440 place Category C Prison. This proposal was approved 12 September 2019 and replaced a 2017 approval for 1017 place Category C prison on the same site. Work on this prison has now commenced.
- Adjacent to HMP Garth and HMP Wymott, Leyland, Lancashire: 1715 place Category C Prison. This application was refused on 6 July 2021 and is the subject of appeal APP/D2320/W/22/3295556.
- Adjacent to HMP Grendon, Grendon Underwood, Buckinghamshire: 1,468 place Category C Prison. This application was refused on 29 March 2022. It is understood that an appeal will be lodged against this refusal.

Relevant Local Planning Applications

5.7 In addition to the current planning appeal for a new prison adjacent to HMP Gartree, a planning application to expand the current facility to provide a new four storey houseblock for up to 247 prisoners was proposed (application 21/02128/FUL). This proposal also included a two storey workshop, extension to the segregation unit, kitchen and sports hall extensions, a MUGA pitch and provision of an additional 59 car parking spaces for staff. This application was withdrawn on 15 February 2022.

5.8 Consent was granted for the demolition of the existing closed prison and construction of a new 1715 place Category C prison at HMP Wellingborough, Northamptonshire. Consent was granted through applications WP/16/00786/OUT and WP/18/00312/REM. Renamed Five Wells, this prison opened in early 2022.

5.9 Consent for the demolition of the former Young Offenders Institute at Glen Parva, Leicestershire to enable construction of a new 1715 place Category C prison was granted

through applications 16/1672/OUT and 18/0614/REM. Construction of this prison is underway, with it now renamed HMP Fosse Way.

- 5.10 HMP Full Sutton, Fosse Way and Five Wells have been designed on the same four storey plus shaped prison block design as that proposed at HMP Gartree 2.

6. CASE FOR THE LOCAL PLANNING AUTHORITY (LPA) – MAIN ISSUE 1: LOCATION

- 6.1 Reflecting the Inspector's CMC note, the main issues have been subdivided into location; landscape and planning balance. Socio-economic benefits have been considered within the planning balance. The matters are discussed under these headings.
- 6.2 As a pre-cursor to the consideration of the main issues, it is important to recognise that the Appellant has accepted that the proposal does not accord with the Development Plan. This conflict is noted by the Appellant to relate to Policy GD3 of the Harborough Local Plan. Conflict with four other policies was also cited on the decision notice (CD A75). These are Policy GD1 of the Harborough Local Plan and Policies LNP1, LNP16 and LNP19 of the Lubenham Neighbourhood Development Plan. Given the accepted position that the proposal does not accord with the Development Plan, the appeal should be dismissed unless material considerations indicate otherwise (as per Section 38(6) of the Planning Act 2004).

MAIN ISSUE 1: LOCATION

- 6.3 The NPPF is underpinned by sustainability. This includes a locational aspect due to the aim to reduce travel distances and dependency of private motor vehicles (CD H1 paragraphs 104 – 105). Where facilities and services are clustered together there is also a greater ability to create linked journeys to again reduce the CO2 impact generated by vehicle movements. For this reason, the focus is for development to the urban areas and larger towns, with a tiered reduction to the lowering settlement hierarchy of villages before a general presumption against development in the countryside, unless it is a compatible use or a use requiring a countryside location. The NPPF is clear about these aims within Chapters 2 (achieving sustainable development), 9 (promoting sustainable transport) and 15 (conserving and enhancing the natural environment).
- 6.4 This approach is then integrated into the Development Plan, and in particular the Harborough Local Plan through the following policies:
- Policy SS1: This policy establishes the spatial strategy for directing growth in accordance with the settlement hierarchy. This seeks to direct growth principally to the higher order

settlements and edge of Leicester, with less development to each sub-category of settlement. Other villages and the countryside will have development strictly controlled.

- Policy GD1: This policy reiterates the sustainability approach set out in paragraph 11 of the NPPF.
- Policy GD3: This policy seeks to restrict unacceptable and harmful development and uses from the countryside.

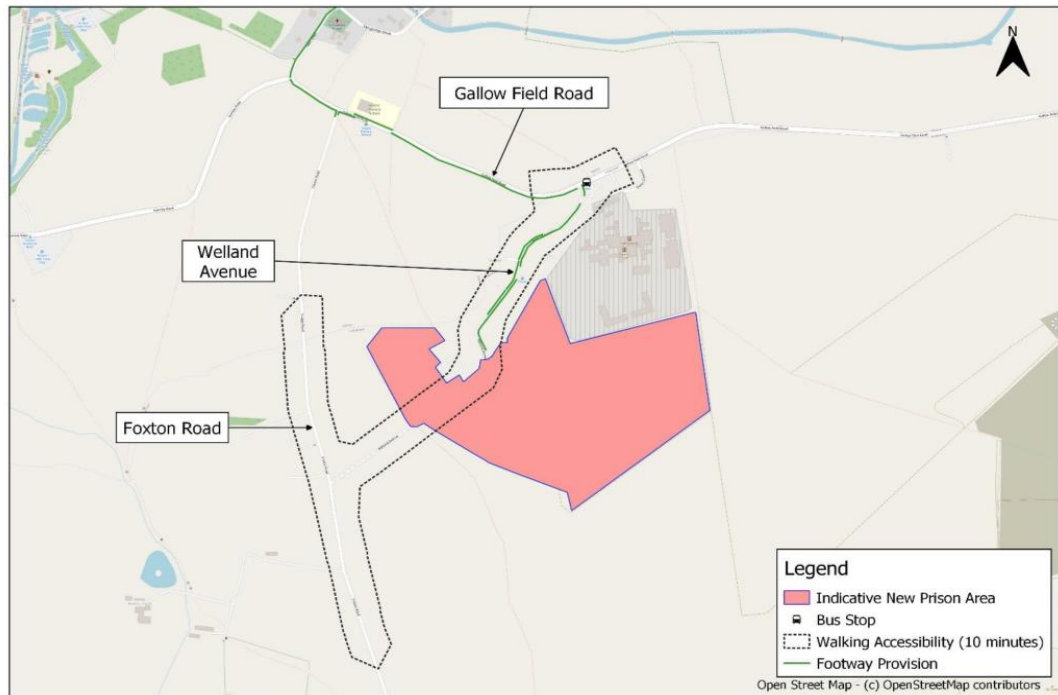
6.5 The Development Plan therefore sets out a sustainable approach to development, with most new development expected to be delivered to the higher order settlements. Small villages, such as Gartree, and the countryside, upon which the appeal site is located, are not expected to be brought forward for large scale development. The accessibility element of the Local Plan therefore aligns with the NPPF and forms a key aspect of determining whether the location of the appeal site is appropriate, when considered against the Development Plan.

6.6 Gartree is not considered to be a location suitable for development within the Harborough Local Plan, as it has no facilities within it. The Harborough Local Plan does not therefore expect any development to settlements such as Gartree. The Lubenham Neighbourhood Development Plan is slightly more positive in its approach in respect of Gartree, allowing limited, small-scale employment uses through conversion and reuse of appropriate buildings (Policy LNP19). The appeal clearly does not fulfil the remit of '*small scale*' and is itself countryside with no buildings constructed on it, and thus is still contrary to Local Plan Policy GD3.

6.7 The lack of any local facilities and physical separation from settlements with any facilities, outlines the position that the site has a fundamental issue in terms of its locational sustainability. In respect of access to development, the NPPF is clear within paragraphs 104 and 105 that there should be a genuine choice of transport modes, with promotion of travel by walking, cycling and public transport opposed to private vehicles. An assessment of access to facilities by these non-cars borne modes is therefore required to allow compliance with the NPPF to be undertaken.

Access on foot

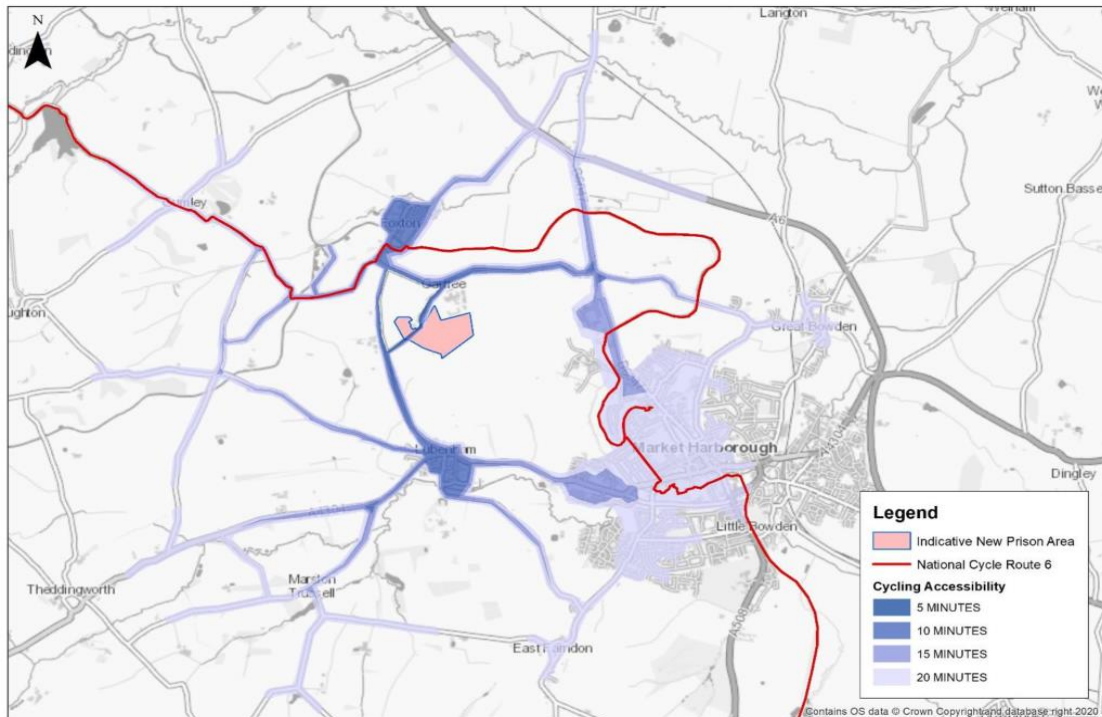
- 6.8 Manual for Streets 1 (CD H8, para 4.4, page 45) states that '*walkable neighbourhoods*' are reflected by facilities being within 800 metres but recognises that journeys on foot can be up to 2.0 kilometres in some instances. This is reinforced by the Institution of Highways and Transportation's Guidelines for Providing for Journey's on Foot (CD J18). The text on pages 48 – 49 and accompanying Table 1 outlines that there is a desirable walking distance beyond town centres and for community/school/sight-seeing as 400 metres but recognises that 800 metres is acceptable. A preferred maximum is noted as 1.2 kilometres, but with recognition that up to 2.0 kilometres can be acceptable for commuting, school and sight-seeing.
- 6.9 In terms of the walkable distances, the Statement of Common Ground between the Appellant and Council notes at paragraph 2.1 that Foxton and Market Harborough (Town Centre) is beyond 2.0 kilometres. Lubenham falls just within this distance but would involve walking for the majority of this distance along an unlit national speed limit road (60mph) with no footpath, simply a grass verge. This does not represent an attractive option for anyone and thus access to facilities beyond those in Gartree are not accessible on foot.
- 6.10 The 10 minutes walking time is the approach used within the Appellant's Outline Travel Plan (CD A11), which equates to 840 metres. The walkable distance is shown on figure 4-2 and is replicated below. This shows that no facilities other than a bus stop and informal open space are within walking distance of the appeal site. The Outline Travel Plan notes this as access to local amenities by pedestrian access as '*limited*' (CD A11 para 4.4.1, page 14). This is then revised down within Section 4.5 (page 19) of the Outline Travel Plan to state that no journeys will be taken on foot to the appeal site.
- 6.11 With no local facilities within walking distance and acceptance by the Appellant within their own technical evidence that no journeys on foot will occur, it can only be concluded that walking cannot replace any car journeys.



Walking Accessibility: taken from the Appellant's Outline Travel Plan Figure 4-2

Access by bicycle

- 6.12 The Appellant has taken a time approach to plotting the cycle distance via the public highway. The Council does not object to this approach. These times are shown on Figure 4-3, which has been reproduced below. The 10 minute cycle distance marker equates to 2.64 kilometres cycle distance, and the 20 minute marker as 5.28 kilometres. This suggests that potentially cycle journeys to the appeal site can be undertaken from Lubenham and Foxton within 10 minutes, and the western half of Market Harborough within 20 minutes.



Cycling Accessibility: taken from the Appellant's Outline Travel Plan Figure 4-3

6.13 Distance is not the only factor affecting the ability to cycle to a destination. The desirability to cycle can be influenced by the following key considerations:

- provision of secure cycle parking and showers at designation.
- Shift patterns.
- Whether there are dedicated cycle lanes.
- Speed limits for vehicles along cycle routes.
- Travel volumes along cycle routes.
- Topography of the cycle routes.
- Whether routes are lit.
- Weather.
- Time constraints.
- If linked journeys are required.

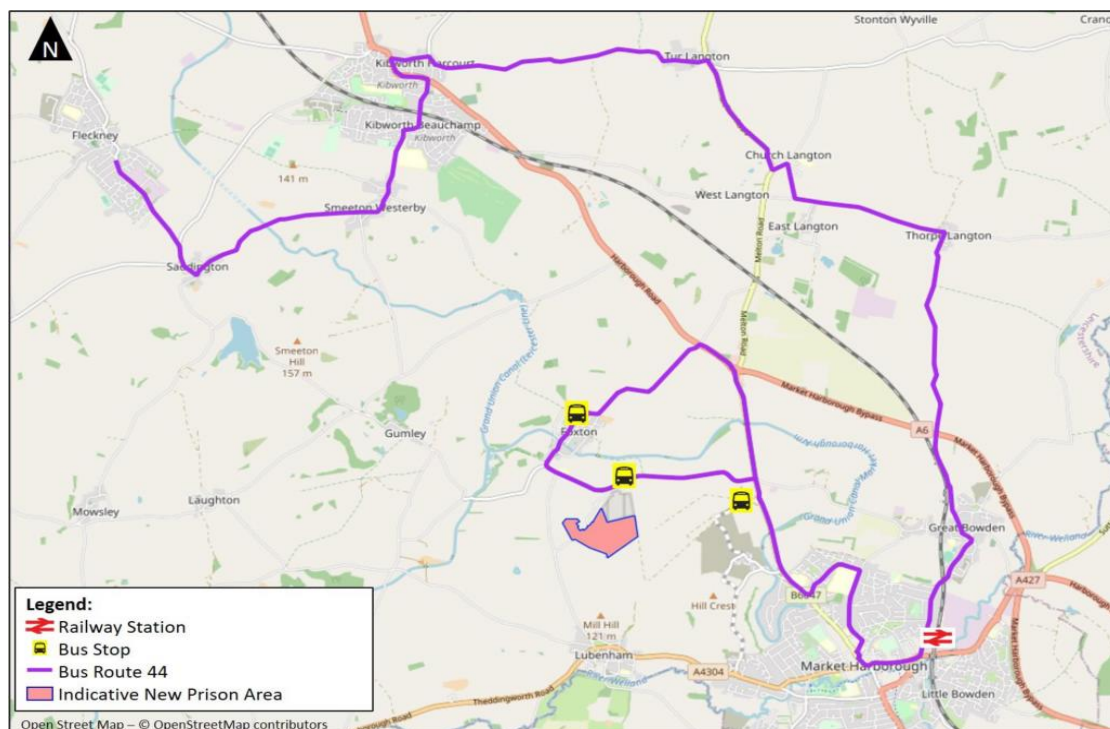
6.14 In this situation, the appeal site has the capacity to influence the end destination through the provision of secure cycle storage and showers, to enable journeys to the prison by bicycle. Whether these are available to visitors or just staff would influence the ability for these two types of journeys. For security, I would expect that the showers could only be offered for use

to staff, disincentivising any journeys for visitors by bicycle. This assumption also dovetails with the expected modal split for visitor and legal trips to the site (CD A10 Appendix F: Trip Generation Assumptions, Table 2 - page 165 of PDF), where Table 2 notes 100% of visitor and legal visits to be by car. Bicycle and walking are not even included on this list, presumably given the low likelihood of anyone from within the walking and cycling distance being placed within the prison.

- 6.15 All other aspects that can influence the decision to undertake a journey by bicycle are essentially beyond the control of the Appellant. The need for employees to be present 24/7 means that shift patterns will create the need for travel early in the morning/late at night when the desirability is reduced. The surrounding highways are generally unlit, national speed limit highways, with no dedicated cycle lanes. They are not the most inviting routes for use for cycling. Additionally, the prison is located on the top of a hill, meaning that there is undulation in the access routes, which may discourage cycle journeys.
- 6.16 A final key element to the ability for journeys to be made by staff to the site is the expected travel distance of the individual. Working in a prison, particularly as a Prison Officer, is a niche profession. Travel distances to work are addressed within the Socio-Economic Statement (CD A12) at paragraph 4.3 (page 26 – there are two paragraph 4.3s), where it is stated that circa 737 jobs could be occupied by people residing within a 40 mile radius of the proposed development, with the remaining 41 posts filled by people elsewhere. A 40 mile radius clearly indicates that the expectation is that most employees would not come from within a suitable cycling distance. The existing travel behaviours are set out within Section 3.7 of the Transport Assessment (CD A10) and replicated at Section 4.5 of the Outline Travel Plan (CD A11). These use the work mode travel split from the census information for Harborough District, and updates this to discount the inability to walk to the site to zero. The average travel to work distance is taken to be around 15 miles for the East Midlands (source ONS 2011), so the expectation that most employees will be within a 40 miles radius clearly places the proposed employees at Gartree 2 in a different situation to those generally captured by the average statistics for Harborough District. The expected level of cycle journeys to Gartree 2 is therefore expected to be notably below that illustrated as part of this appeal.

Access by Public Transport

- 6.17 Section 4.4.3 considers public transport that could be used to access Gartree 2. This is visually illustrated in Figure 4-4, a copy of which is reproduced below. In respect of public transport, there are two elements to consider: bus and railway services.



Public Transport Provision: taken from the Appellant's Outline Travel Plan Figure 4-3

Bus Access

- 6.18 Gartree is served by bus Route 44, which travels between Fleckney, Market Harborough and Foxton. The service operates once every one to two hours Monday to Saturday, with no service on Sunday. It operates as a one-way loop around Foxton and Gartree; this means that the service from Market Harborough towards Foxton routes via Langton Road and does not route via Gartree. The latest timetable for Route 44 identifies the first bus arriving at Gartree at 0648 Monday to Saturday and the last leaving at 1818. However, because of the loop approach to the bus route, the 06:48 service only offers access from Foxton. The first bus that offers access to any other location is at 0757.

- 6.19 The shift pattern proposed for Gartree 2 is set out in numerous places within the Transport Assessment (CD A10), including Table 1, which is reproduced below:

Title	Time Period	Proportion of Staff (%)
Uniformed Staff - 60% of total staff		
Early Shift	0700 – 1230	22%
Main Shift	0800 - 1730	48%
Late Shift	1330 – 2030	23%
Nights	2000 - 0700	6%
Non-Uniformed Staff (Flexible Working) - 40% of total staff		
Early Shift	0830 – 1630	48%
Main Shift	0930 – 1700	52%

- 6.20 The bus stop is noted as being a 10 minute walk from Gartree 2, before the process of needing to go through security on site and be in place for the start of a shift. As the first bus in the morning arrives at 0757, it means that this bus cannot be used by any uniformed staff on the early or main shift. The last bus leaves at 1818. The late shift therefore finishes after the last bus has already left, whilst the night-time shift need to arrive and leave before the buses are operational. The existing bus service therefore cannot be used by any of the uniformed staff, regardless of the shift they are on. This instantly means that 60% of the staff on site (equivalent to 467 employees, if 778 jobs are to be created by the proposal as outlined in the Appellant's Socio-Economic Statement – see CD A12) cannot use public transport.
- 6.21 A financial contribution is proposed that would enable an additional bus to be run for four years. However, it is unclear how this would particularly assist any shift workers. An earlier morning bus would allow staff to reach Gartree at 0648, but it still raises the query of the ability to then get from the bus stop and in place for the start of the shift at 0700. It would allow staff to be there in time for the 0800 shift start, but this would provide a significant period of time between the bus arrival and shift start. The shift pattern as stated simply does not coincide with the bus timetable. If an additional bus was provided at the end of the day, it would not make any difference to the ability for the uniformed staff to use the bus service.
- 6.22 Even if the provision of an earlier bus is considered and factored into the ability to use public transport, it is typical that staff rotate between the various shifts. If only one or two of the

shift patterns can be served by the bus route, then there is a lacuna in the ability for staff to reach the site on some of the shift patterns. This includes all shift patterns on Sundays. This is likely to result in the need to own a car in order to access work for a percentage of the shifts and thus rather than spend up to an hour on a bus when a car would be available, the likelihood is that a much quicker, and more succinct travel time would be used via a private car. The expectation is that few, if any, uniformed staff will actually use public transport to reach Gartree 2.

- 6.23 It is accepted that the non-uniformed staff working more traditional '*office*' hours could use public transport. However, the overall number using it for the site as a whole is likely to be lower than the statistical average for the District, given the fact that 60% of the staff on site (uniformed staff) cannot realistically use public transport, and the service that is available only serves a small number of local villages, plus Market Harborough. It does not serve the whole District or extend to a number of higher order settlements. The potential for workers to be able to use the bus is therefore limited due to its geographical restrictions.

Rail Access

- 6.24 The railway station is located more than 5 miles from the appeal site, thus the only realistic access possible from it would be in association with public transport, or taxi (a private vehicle). This would provide an opportunity for access to the non-uniformed staff, but the associated cost and elongation of any journey time, due to the timing between the trains and infrequent bus service, is likely to discourage its use. For visitors to the prison, it is unlikely to represent a suitable alternative to the car, a position reflected in the expectation that all visitors and legal representatives will access the site by car (Transport Assessment Appendix F Table 2 – CD A10 page 164).

Public Transport Conclusions

- 6.25 Access to the site by public transport is therefore not realistic for uniformed staff (60% of the workforce) or by any visitors to the facility. The remaining non-uniform workers may be able to use the bus service, if they live in a limited number of locations, but the likelihood that workers can afford to live on this bus route is low, given the high cost of housing in these settlements compared to the wider area. The combined use of train and bus services could be

used, but again is unlikely to be a realistic alternative, given the cost and time to reach the site compared to the use of a private vehicle. Public transport is also ruled out as being of use to any visitors.

Accessibility to the Facility Conclusions

- 6.26 As illustrated in the Appellant's own information, the site cannot be reached on foot (CD A11 page 19 Section 4.5). It is considered that there is very limited scope for journeys by bicycle due to the shift patterns operated and the unlit, high-speed highways upon which journeys need to be made. Most staff are also likely to live more than the reasonable cycling distance from the prison. Public transport to the site is limited and does not appropriately align with any of the shift workers. This accounts for all the uniformed staff, which is 60% of all the staff, at the site. For the remaining staff, the bus service only runs via a limited number of rural villages plus Market Harborough. Given the expectation that most staff will be within a 40 mile radius of the site, most will not live on this local bus route. Some journeys via a combination of train and bus could theoretically be undertaken but is unlikely to be a realistic alternative, given the cost and time to reach the site compared to the use of a private vehicle. Public transport is also ruled out by the Appellant as being of use to any visitors.
- 6.27 In conclusion, it is not considered that walking, cycling or public transport represent realistic alternatives to the private motor vehicle, thus the proposal fails to accord with the sustainability aims set out in the NPPF, and in particular the content of paragraphs 84 and 85. It also fails to accord with the locational approach to development set out within Harborough Local Plan Policies SS1 and GD1. This represents conflict with a fundamental element of the Development Plan.

Accuracy of Traffic Modal Information Provided

- 6.28 Notwithstanding the conclusions on the inaccessibility of the appeal site by non-private vehicles, issue is also taken in respect of the accuracy of the information provided on modal uses within the Transport Assessment.
- 6.29 The existing travel behaviours are set out within Section 3.7 of the Transport Assessment (CD A10) and replicated at Section 4.5 of the Outline Travel Plan (CD A11). These use the work

mode travel split from the census information for Harborough District, and updates this to discount the inability to walk to the site to zero. The 10.6% walking journeys have then been equally distributed to the other transport modes. This appears to be a less than robust approach to analysing the travel behaviour expected for Gartree 2.

- 6.30 Rather than working on assumptions, it would have been much more accurate to undertake a survey of workers and visitors to the existing Gartree prison, as this would have offered tailored information that would reflect the travel patterns associated with the proposed facility. This is the approach that has been undertaken in support of other prison expansions, such as HMP Hindley. There would be no reason to suggest that the staff for the new prison would not come from a similar geographic distribution. The lack of any site specific information appears to be a shortfall of the current proposal.
- 6.31 The reliance on District level information means that the assumption is that the proposed facility will follow the patterns of other work activity within the District. There are a number of items that will however set the operation of a prison site apart from standard travel to work options:
1. The site operates 24/7, requiring shift patterns. Whilst there is a large warehouse and storage provision within Harborough District that also requires this shift pattern, the majority of workers in the District would work the more traditional 9 to 5, Monday to Friday, pattern. This offers greater scope for walking and cycling to work compared to a shift pattern, as well as more regular public transport services. Due to the shift patterns (see Table 5-1, page 27 of the Transport Assessment – CD A10) for the uniform staff, the use of public transport cannot occur, whilst unlit fast roads would discourage journeys on bicycle by such staff. This equates to 60% of the staff on site; 60% of the employees within Harborough District will not work shift patterns, thus the use of this information essentially results in inaccurate assumptions.
 2. The high proportion of the employment locations will be in the larger settlements, namely Lutterworth and Market Harborough. These are much easier to reach from the larger populations that exist in these locations, offering greater opportunities for safe routes to walk and cycle to work. Additionally, they will have better connectivity via numerous bus

services to other locations. The ability to access other employment locations is likely to be better than a comparatively isolated location in an unsustainable village.

- 6.32 For these two reasons, it is considered that the percentage of journeys assumed to occur via bicycle and public transport are inflated for the appeal proposal. The Transport Assessment and Outline Travel Plan (Table 5-1 and 4-4 respectively – CD A10 and A11) currently suggests 6.5% of staff journeys would be by non-private vehicle modes (bus, train and cycle) and that 0% of visitor journeys would be by non-private vehicle modes. This in itself presents a very poor picture of the expected transport mode options, before considering the misrepresentation of the few journeys that are expected to be by sustainable transport modes.
- 6.33 The quantum of employees expected to be living within Harborough District also raises significant concern over the ability to reach the site by alternative transport modes. The Appellant's Socio-Economic Statement (CD A12 paragraph 4.6) notes that 46 FTE posts will be filled by people residing in Harborough District, from the 778 FTE jobs created. Given no-one beyond employees are expected to travel by anything other than car, the expected non-car borne travel will only relate to employees. If the split for the whole workforce is applied at the percentage ratios set out in Table 3.9 of Transport Assessment (CD A10) it is expected that 2.8% of movements will be by bus, 0.9% by train, and 2.8% on bicycle. This equates to 22 persons travelling each day to the site by bicycle and 22 persons by bus. This equates to supposedly 44 of the 46 people living within Harborough District accessing the site by bus and cycle; only 2 would drive to the site. The bus route does not serve a wide enough geographic area or run for sufficiently long each day to enable this level of use to occur, whilst the desire to cycle to the facility by this proportion of the Harborough District based staff is very unrealistic given the shift based patterns many would be on.
- 6.34 A more realistic level of non-car borne movements would be to attribute the 2.8% each for cycling and bus use to just the expected 46 FTE jobs associated with Harborough District residents. This equates to 1.3 people cycling to the site and 1.3 people using the bus. This level of non-car borne travel movements cannot be considered sustainable. This reinforces the conclusion that the site's location is inaccessible, unsustainable and contrary to policy.

7. THE CASE FOR THE LPA – MAIN ISSUE 2: LANDSCAPE

- 7.1 Protection of the landscape and in particular the countryside for its own sake is embedded within the NPPF (Chapter 15) and the Development Plan. Policy SS1 sets out the spatial strategy for Harborough District and explicitly states that development within '*other villages*' (such as Gartree) and the countryside (where the appeal site is located) will be '*strictly controlled*'.
- 7.2 The overarching principles for the sequential location of development set out in Policy SS1 are then translated in more detail within Policy GD2, outlining a criteria-based approach as to when development will be acceptable. This includes the need to provide development that:
- is physically and visually connected to and respects the form and character of the existing settlement and landscape (Clause 2 (e)); and
 - retains as far as possible existing natural boundaries within and around the site, particularly trees, hedges and watercourses (Clause 2 (f)).
- 7.3 Policy GD3 then sets out a more restrictive policy for development in the countryside. The Appellant has accepted that the appeal proposal conflicts with Policy GD3, and that the proposed use does not fall within the accepted list noted in this policy, or within the '*other uses that justify and are compatible with a countryside location*'. This policy is considered to be worded to accord with the NPPF and thus can be afforded full weight.
- 7.4 Policy GD5 augments Policy GD3, noting amongst other things that proposals should be located and designed so that they are sensitive to its landscape setting and Landscape Character Area.
- 7.5 The Appellant has accepted that there is a degree of harm upon the countryside and thus conflict with the Development Plan exists. It is the extent of this harm and the degree of conflict with the Development Plan that needs to be established.
- 7.6 Landscape matters have been considered in detail by Mr S Neesam of The Landscape Partnership on behalf of Harborough District Council. Mr Neesam's Proof of Evidence

considers the impact of the appeal proposal upon landscape character within Chapter 3, and the effects on visual amenity within Chapter 4. Chapter 5 then considers the impact of the proposal specifically in respect of the reason for refusal.

Effect upon Landscape Character

- 7.7 At a district level, the site is found primarily within the Welland Valley Landscape Character Area (LCA). Taking into account the characteristics of the existing landscape, it has been judged that the Welland Valley has a high overall sensitivity.
- 7.8 Mr Neesam found that the proposed prison would be inconsistent with the key characteristics of the Welland Valley, which are:
- Gently meandering river in wide and shallow valley
 - Little tree cover
 - Pasture on the floodplains
 - Arable farming on the valley sides
 - Market Harborough, operating as a traditional market town, is the dominant urban influence
- 7.9 The Appellant's LVIA also acknowledges that the prison would have an adverse effect on character, especially in Year 1.
- 7.10 Mr Neesam concluded that there would be a residual effect of low magnitude and moderate adverse significance on the character of the Welland Valley.
- 7.11 Mr Neesam also undertook his own local landscape character assessment. At a local level there is an influence on the landscape from the former airfield and this is taken as the starting point for the description of a local Landscape Character Area. Mindful of the likely visibility of the proposed development, the study area was defined to encompass the former airfield, as well as the gently undulating landscape to the south which includes Mill Hill.
- 7.12 It was concluded from the local landscape character assessment that the elements of the proposed appeal could never be considered typical of the countryside.

- 7.13 The need to accommodate this level of development has resulted in the indicative masterplan (CD A48) removing all existing features from the site. This erodes the existing field patterns and boundary hedges characteristic of the Landscape Character Area. The existing watercourse is also diverted, the trees removed, and the existing pond with Great Crested Newts, plus the various badger setts, will all be lost.
- 7.14 The pre-determined need to provide accommodation for 1715 inmates has left a site that is dominated by the buildings, and few notable open spaces between the structures. This has led to only comparatively limited landscaping around the perimeter of the site, which seems an attempt to screen the development. The proposed planting in itself also introduces extensive linear tree planting within a landscape setting where there is relatively limited tree cover. The proposed landscaping therefore does not respect the character of the area.
- 7.15 The form and scale of development make it incompatible and difficult to accept within a rural landscape. It is the view of Mr Neesam that development at the appeal site would compromise the rural qualities of the site and the appreciation of the wider Welland Valley landscape. The proposed prison is, by its nature, considered out of character, and therefore harmful to the character of the countryside, and this effect would not be removed by the proposed mitigation planting. The scheme does not work with the existing landscape features as envisaged by Policy GD5, which in turn causes harm to the site itself and its wider countryside setting as defined by Policy GD3.

Effect upon Visual Amenity

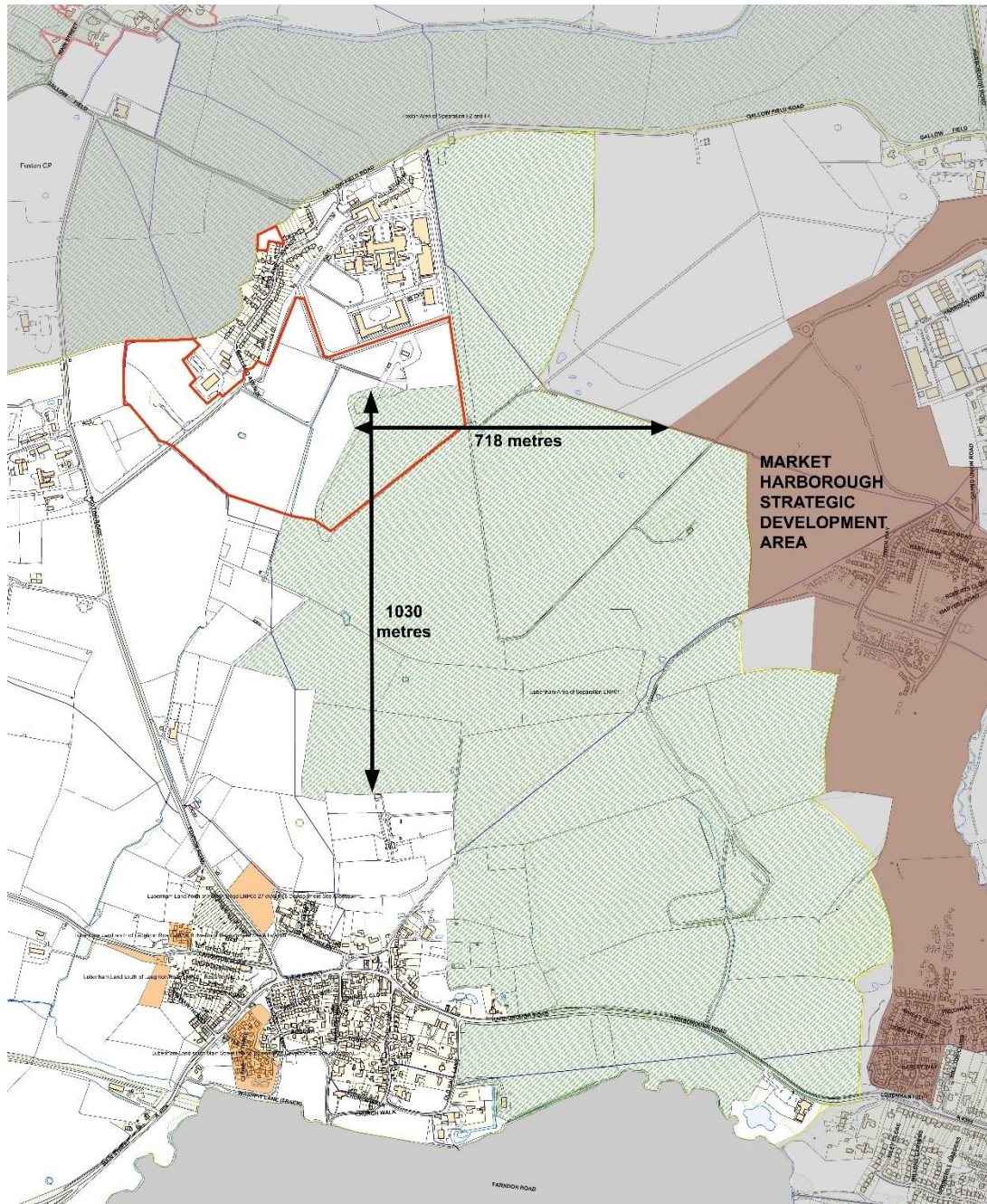
- 7.16 Mr Neesam's LVIA found that the appeal site affords a relatively extensive zone of visibility, with a range of short, mid-range and long-distance views available.
- 7.17 In respect of the impact of the proposed prison, consideration of the existing buildings forming Gartree needs to be undertaken. The dwellinghouses along Welland Avenue provide a fine grain of development, in a linear form that is relatively well screened due to existing vegetation and the comparatively low height of the buildings. The existing Gartree Prison provides a much larger scale set of buildings compared to the houses, but predominantly as two storey structures. This allows the established trees to filter some views of the buildings. Additionally, there are only limited taller buildings, and generally the structures are set within

the centre of the site, with the open spaces around the edge. This is particularly true of the southern boundary, which is more visible to views from the south, with specific reference to footpath A22.

- 7.18 Turning to the design and scale proposed for Gartree 2, it is significantly different to the existing built context within which it is seen. The new prison is 2.5 times the size of the existing prison (700 inmates versus 1715 inmates). The large scale of the proposal means that it occupies a significant site area, with buildings extending for around 500 metres in an east/west direction. This represents a significant development, which dominates even the existing prison.
- 7.19 The height of the buildings is also notably different. The proposed prison incorporates a series of large plus shaped four storey blocks and two sizable workshop buildings. The structures do not relate to any existing buildings in the area in terms of their design or their scale, reinforcing their prominence within the landscape as alien features more akin to a business park. The extent to which this uncharacteristic form and scale is discernible varies, with it most visible from the south and east. The specific impact upon views from the various public rights of way are considered in turn.
- 7.20 From public footpath A25 the proposed development would extend across the scene, blocking views to more distant countryside. At Year 15 the proposed development would continue to stretch across the view, and the residual effect would remain of high magnitude and major-moderate adverse significance.
- 7.21 From public footpath A23 the proposal would sit to the left of the existing prison and would expand development across a wide portion of the view. By Year 15, the new perimeter fence would be largely screened by the new planting, though the taller residential blocks would still be visible above the vegetation, leaving a residual effect of moderate adverse significance.
- 7.22 From public footpath 22 the proposed development would once again stretch across a wide portion of the view and would lie in the centre of the view. The onsite Hybrid Black Poplars would be removed leaving a stark view of the new prison. The gentle fall across the site means that the proposed mitigation planting would be fairly ineffective at screening the proposed

buildings. The alignment of part of this footpath along the edge of the site would also significantly alter the perceived countryside setting of the right of way, offering a much more urbanised view of the adjacent car park and the substantial number of buildings on the prison site beyond. I therefore concluded that there would continue to be an effect of major-moderate adverse significance at Year 15.

- 7.23 Footpaths A22, A23 and A25 represent the harm that would also occur to the Area of Separation, with a clear erosion to the scale of this policy designation resulting. It would reduce the scale of the Area of Separation towards Market Harborough from 718 to 479 metres (a 39% reduction) whilst to Lubenham it would be reduced from 1030 metres to 761 metres (a 26% reduction). These are notable reductions to the open character and appearance of the area and the physical separation between settlements.
- 7.24 The proposed development would effectively block certain long-distance views across the landscape into the Welland Valley which are available from public footpaths and from Welland Avenue. Whilst the proposed mitigation planting might in time screen built elements, it would not compensate for the loss of long-distance views.



*Annotated plan (from Lubenham Neighbourhood Development Plan) showing the appeal site
and the impact upon the Area of Separation*

Landscape Conclusions

- 7.25 Mr Neesam concluded that the proposed development would, by virtue of its location and its size, scale and design, result in unacceptable residual harm to the character and appearance of the countryside; would have adverse effects on the landscape setting of Gartree; and would compromise the physical separation of Gartree and the Strategic Development Area (SDA);

and have a significant adverse effect on the visual separation of the two settlements, by reason of:

- The introduction of an extensive area of buildings up to four storeys high and associated security fencing and car park in place of existing farmland;
- The nature of the development, which cannot be considered characteristic within the countryside;
- The extent of the effect, with changes being perceived over a wide area;
- The continued physical and visual presence of the prison within the landscape at Year 15, despite the proposed mitigation;
- The exposed nature of the site;
- The loss of longer-distance views across the valley; and
- The negative effects on both the physical and visual separation of Gartree and Market Harborough.

7.26 Policy GD3 seeks to prevent development in the countryside that would harm its intrinsic value and rural character. Policy GD5 sets out how development can be sited and designed in a manner that is sensitive to its landscape setting and character area. The proposed appeal scheme however, due to its scale and overall design does not respect any of the features or characteristics of the site itself, or its built or natural environs. The resultant scheme does not therefore assimilate with the wider area but causes significant harm to the countryside. This conflicts with Policy GD3.

8. THE CASE FOR THE LPA – MAIN ISSUE 3: PLANNING BALANCE

- 8.1 In accordance with the NPPF paragraph 11 and Policy GD1, a planning balance of the benefits and harm of any proposal needs to be undertaken, reflecting economic, social and environmental aspects of a scheme and how these relate to planning policy. Combined, these enable the conclusion as to whether a proposal is sustainable, and whether the material considerations are sufficient to overcome the identified harm to the Development Plan.
- 8.2 As part of this appeal, much emphasis has been placed on the need for additional prison places and the socio-economic benefits that will result from its construction and operation. These are considered within the appropriate economic and social elements of sustainability.
- 8.3 This sustainability assessment is undertaken below using the economic, social and environmental headings, identifying the positive and negative aspects of the scheme. It needs to be recognised that whilst the proposal at application stage was only refused on location and landscape grounds, there are other matters to which harm has been identified. It is not however, suggested that these alone would warrant refusal of the planning appeal.
- 8.4 Consideration of the sustainability of the scheme also needs to be balanced against the compliance with the Development Plan and in particular the level of harm resulting from any conflict with policies. This policy consideration is undertaken, with reference to whether any other material conditions outweigh the conflict with the Development Plan. This is the important test set out in Section 38 (6) of the Planning Act that needs to be met, in order for this appeal to be approved.

Economic Sustainability

- 8.5 It is recognised that there are economic benefits that will occur in respect of the construction and operation of the prison, in terms of job creation and local spend. However, the accuracy of the Appellant's figures on these benefits are indicated to have been derived from the MoJ's Economic Impact of a new Prison (2013) (CD J1), with updated MoJ date inputted. The 2013 study was based upon the basis of creating new prisons of more than 2000 prisoners (section 2.1), for sites expected to be located in London, North West England or North Wales. This assessment is also based upon the consideration of four existing prisons:

- HMP Belmarsh: located in the London Borough of Greenwich (urban location) (Category A and B) (910 place capacity)
- HMP Whatton: located in the countryside, close to but outside of a modest sized village in Nottinghamshire (Category C) (841 place capacity)
- HMP Forest Bank: located in Salford, Greater Manchester (urban location) (Category B) (1364 place capacity)
- HMP Peterborough: embedded within Peterborough (urban location) (Category B and C) (1008 place capacity)

8.6 The baseline information used, is therefore focused around the provision of larger prisons, nine years ago in different regions of the country. It also uses a variety of category prisons which are principally in urban locations (three of the four selected sites). Additionally, not all of the information on direct income was available for these prisons, offering an incomplete data set (Table 3.1, page 9), and the economic impacts are noted as varying '*significantly*' from prison to prison (section 3.4, pages 8 – 9). Taking an average could therefore result in significant inaccuracies to the figures indicated for Gartree 2.

8.7 Table 3.1 highlights notable differences between the level of direct jobs and income level for Whatton (Category C) compared to other locations which include elements of Category A and/or B. The category of prison off this data set therefore appears to influence income levels, whilst induced income and induced jobs is also much lower for Whatton. Whether this is due to it having a countryside location, thus not too easy to capture additional spend, or again as a result of the prison category, one cannot be sure.

8.8 The accuracy of the information created for economic benefits based off such a survey is therefore likely to be inaccurate, reflecting the report's own comment that each prison varies '*significantly*'. As previously commented, it would have made sense to collate information based upon the existing HMP Gartree to support the current appeal proposal, as this would have been specific to the location of the new prison and the category type, allowing accurate data sets to be created.

- 8.9 Within the Socio-Economic Statement supporting the appeal (CD A12) it shows that Harborough District has a higher-than-average level of economically active population, and a lower-than-average level of unemployment (Table 2.3, page 14). This questions the importance of the benefits from the development to a prosperous area compared to its location within a deprived area with high levels of unemployment, regardless of the specific figures generated.
- 8.10 In terms of the local area, this definition appears to change significantly between the 2013 report, which notes specifically that this is referring to the surrounding District (CD J1 section 3.4, page 8). In the appeal case, this would be Harborough District. It also then indicated that 54% of the prison staff could be expected to live within the local (District) area, but with this ratio varying between 20% and 70% (section 4.2, page 13). However, within the Socio-Economic Statement (CD A12), in terms of the '*local*' for the workforce, Section 4 (paragraph 4.3, page 26) considers people residing within a 40 mile radius as local, allowing circa 737 jobs to be created within the area. This approach does not align with the 2013 report, or any of the other figures seemingly included within the Socio-Economic Statement.
- 8.11 A 40 mile radius extends to include Birmingham to the West, Lichfield (Staffordshire) to the north-west, up to Junction 27 of the M1 to the north to cover Derby and Nottingham (so Derbyshire, Nottinghamshire and all of Leicestershire), Newark (Nottinghamshire and Spalding (Lincolnshire) to the north-east, Peterborough (Cambridgeshire), Bedford (Bedfordshire) and Milton Keynes (Buckinghamshire) to the south-east and down as far as the M40/A43 interchange to the south-west (Oxfordshire). To the south-west/west it also picks up other locations such as Stratford upon Avon, Coventry and Rugby, all within Warwickshire. This '*local*' employment creation therefore covers locations that are up to 1.5 hours' drive away, across at least ten counties and three regional areas.
- 8.12 There has been ongoing issues in filling posts locally for HMP Five Wells (18 miles away as the crow flies), and with HMP Fosse Way (9.75 miles away) also set to open; providing three new large prisons within close proximity of each other is likely to cause some concern over exactly where employees live.
- 8.13 In terms of the actual local benefits included in the Socio-Economic Statement (CD A12), using the figures provided by the Appellant, and noting the above uncertainly stated in respect of

the accuracy of these figures, it is indicated that the following would be generated at a local (Harborough District) level:

Construction Phase (Chapter 3 of CD A12)

- Gross Direct – 13 FTE jobs for local people (paragraph 3.6)
- Gross Direct Expenditure – not stated
- Gross Induced Expenditure - £35.5 million for companies within the construction industry (3.10); additional turnover/expenditure for other sections £12.9m local level (para 3.11)
- Induced jobs: 13 FTE new jobs (para 3.12).

Operational Phase

- Direct jobs - 46 FTE jobs for local people (paragraph 4.6)
- Gross Direct Expenditure by prison to local economy - £2.7 million (paragraph 4.5)
- Gross Induced Expenditure (£14905 x 46 local jobs + £2638 x 732): £2.6 million (paragraph 4.8); questioned whether all of this would be captured due to rural location and lack of immediately accessible facilities)
- Gross Visitor Expenditure: £644569; questioned whether the expected number of prison visitors would occur though given the lack of accessibility discussed in Matter 1 above
- Induced jobs - two local jobs

8.14 The impact at a local level is much more relevant than the overall spend benefits to the region and beyond. It is after all, the local residents who will be affected by the day-to-day operation of the prison, thus comparing harms and benefits to these people is a much fairer approach. Taking on board the fact that the appeal will generate direct and indirect employment and expenditure, the following weight is considered to be appropriate to attribute to these benefits:

- | | |
|--|----------------------------|
| • Construction jobs (temporary benefit) | Moderate Weight |
| • Direct and induced spend during construction (temporary benefit) | Moderate Weight |
| • Direct job creation | Limited to Moderate Weight |
| • Induced job creation | Limited Weight |

- Induced expenditure (including prison visitors) Moderate Weight

8.15 In terms of these benefits it should also be noted that none are site specific. The same overall benefits would be essentially created regardless of its location, pending consideration of a rural versus urban location. If anything, an expectation that higher expenditure and higher local employment would be delivered in an urban setting, particularly in an area with higher unemployment. It is however recognised that weight also needs to be attributed to the economic value created at a national/regional level, to which moderate weight is given.

8.16 Turning to the economic harm, there is a potential dis-incentivisation for investment into the immediate area for businesses and residents, due to the increased scale of the prison and the negative connotations it brings. Only limited weight is afforded to this harm, as it is impossible to quantify, but the location of the prison and quantum of inmates at Gartree will influence people's decision for where to live and/or set up a business, if it does not directly serve Gartree in some way.

8.17 The additional traffic could impact negatively on the surrounding area, as it increases volume levels on the surrounding highways. However, as the expected growth in traffic is not at an exceptional level, only limited weight is afforded to this harm.

8.18 Overall it is acknowledged that there would be a moderate economic benefit as a result of this appeal.

Social Sustainability

Need

8.19 In terms of the social benefits, the need for additional prisoner places is argued by the Appellant to be significantly important due to the increased need to house the predicted growing demand for places, and to provide better quality prisons to enable enhanced rehabilitation of its inmates.

- 8.20 It is recognised by the Council that there is a need for growth of the prison system within England. However, in respect of the evidence available, there is significant concern over the specific *need* for this facility in the East Midlands, and in particular at Gartree. The Development Plan does not provide for a new prison anywhere within the District; as a result, the proposal is contrary to the Development Plan with it being on land allocated as countryside, attached to an unsustainable village.
- 8.21 If need is to be considered part of the material considerations that justify approval of the development contrary to the Development Plan, then the evidence to support the proposal has to be robust. It is currently considered that there a number of flaws and omissions with the supporting information to justify the need for this facility in the East Midlands and in particular at Gartree.
- 8.22 Before considering the specifics of the appeal proposal and the need in this location for a new Category B prison, consideration of the robustness of the information underpinning the appeal proposal must be undertaken.

Background Assessment: Size Parameter

- 8.23 Within the Planning Statement (CD A2) submitted with the proposal, it sets out within paragraphs 7.29 – 7.38 (page 28) the '*site selection and alternative site*' process that was undertaken. This sets out the criteria used to consider sites, including a minimum size requirement of 12 hectares, presumably to enable the provision of prisons between 1418 – 1715 places, as this is identified as the '*maximum efficiency for construction costs and operations*' (paragraph 7.26 – page 27).
- 8.24 The background information to justify this size of facility, thus one of the mandatory requirements of a site (minimum 12 hectares in size) has not been included within the information provided as part of the application or appeal (to-date). It cannot therefore be scrutinised as part of the planning proposal. If this is an incorrect assumption, then the whole basis upon which a mandatory requirement of the new prison scheme is created could be flawed. As noted, this cannot be assessed as it is not before the Inspector.

Background Assessment: Sequential Search

- 8.25 In terms of the sequential search for land to accommodate a new prison, this is summarised by paragraph 7.35 of the Planning Statement (CD A2 page 28). This notes that MoJ land was considered as a priority as it has the potential for quicker delivery and to avoid additional costs and time delays associated with land purchase. A site search for privately owned sites was also conducted but *'did not bear fruit due to a combination of cost, timescales required to acquire private owned site or not fulfilling the required criteria'*. The only assumption possible at this stage is that all private sites would take longer to deliver and thus were all discounted on this basis.
- 8.26 There is an onus on the Appellant to show that a robust assessment of other sites has been undertaken. The Council asked for this information as part of the Pre-Application Response (CD A76) and has also formally asked for this on two occasions as part of the appeal (10 August and 31 August 2022). It is also known that the Rule 6 Party and other interested parties have also requested this information on a number of other occasions, including on 12 August and 24 August 2022 via their Planning Witness. Despite a response on 12 August from a representative of the Appellant that the information would be sent *'shortly'*, it has not emerged and is not therefore included as part of the evidence base for the appeal.
- 8.27 Paragraph 7.36 of the Planning Statement (CD2 Page 28) then continues, noting that on a national scale, several sites were shortlisted against the criteria and four sites were selected for further consideration. It is presumed that these are the four sites that have come forward as the new prison proposals (HMP Full Sutton; HMP Garth/Wymott; HMP Grendon and HMP Gartree). Information has not been provided in respect of the sites that were considered or why these sites were discounted. Without this information, one cannot conclude whether the land adjacent to HMP Gartree is in fact the best site, or even one of the best sites for a new prison.

Background Assessment: New Prison Categorisation for Gartree

- 8.28 Gartree is stated to be the only new Category B prison. Consideration of whether this site is more suitable in terms of its location compared to the other emerging prisons cannot be ascertained with the information currently provided by the Appellant. At Pre-Application

Consultation stage, it was proposed that Gartree 2 would be a new Category C prison (CD A76); it was changed to a Category B prison only at application stage. The main justification for this alteration is unclear.

Background Assessment: Timeframe for Delivery

- 8.29 In terms of the sequential approach initiated, it has been stated that the primacy has been given to land under the MoJ ownership, before considering privately owned land. Within the planning system, land ownership does not carry any weight in respect of proposals. It is unclear why a different approach should be taken in this instance, particularly on the Appellant's assumption that land under the MoJ's ownership will allow quicker delivery. Clearly providing new prisons on Greenfield sites in rural locations has not been supported by Councils/the public, given three of the sites have been refused and therefore require a lengthy appeal process. A better approach may well have been to try and regenerate redundant brownfield sites, such as HMP Wellingborough and YOI Glen Parva, as these were approved by the Councils and are now looking to deliver on the additional prison places in a timely manner. The use of previously developed land also accords more closely with the NPPF (paragraph 119), as well as policies within many Development Plans on this matter. It also forms a tertiary requirement for site selection, as noted in the Appellant's Planning Statement (CD A10 paragraph 7.34 page 28).
- 8.30 In terms of the delivery of new facilities, it is set out within the documentation that there is an urgent need to deliver better quality facilities and increase the overall stock of prison places. Overcrowding in prisons and the need to increase the stock has been an issue for decades, so it should not appear to be a surprise to the MoJ that there is a need for facilities. If programmed appropriately, there is no reason why private land could not be compulsorily purchased to allow the delivery of new prisons in a timely manner. To discount all private sites seemingly on a time delay basis, appears to undermine the principle of a sequential assessment.
- 8.31 Secondly, within the land search approach set out in the Planning Statement, it references consideration of land owned by the MoJ but makes no reference to consideration of other land under the ownership of the Government. The assessment of land holdings under other Government departments must have now occurred, given the public consultation undertaken

on RAF Wethersfield (Braintree, Essex) for two potential new prisons (CD J17). It is questionable at what time this occurred in respect of the selection of the four sites for the new prisons, and whether other redundant previously developed sites, such as RAF Weathersfield, are in fact available. Again, this information is not provided as part of this appeal but raises questions on the site selection process.

National versus Regional Need for Category B Prisons

- 8.32 There are two mandatory requirements stated within the Planning Statement supporting this proposal. One is for *'at least one location in each region (north and south)'* (CD A2 paragraph 7.32, page 28). The East Midlands is not located within the north or the south; it is in the middle and thus does not fulfil this *mandatory* requirement.
- 8.33 The location of the appeal site and the requirement for a north and south requirement draws confusion as to whether the intention was to construct more than one Category B prison, but for some reason not in the public domain, this has not transpired. The Gartree 2 application indicates that only one new Category B prison is to be proposed, and that is why a central location within the country has now been selected. The provision of four new prisons, as sought through the recent planning applications on land adjacent to HMP Full Sutton, HMP Garth/Wymott and HMP Grendon would support this position, with additional capacity then secured at a number of other Category B and C prisons through expansion (see section 5 above).
- 8.34 However, public consultation for new prisons continues to occur on additional sites, including at RAF Weatherfield, near Braintree, Essex (CD J20). Undertaken in late 2021, this proposed, one new Category B prison (1715 places) and one new Category C prison (1715 places). It is not therefore clear exactly what the overall strategy of the Government is for new prisons. Consideration of a new Category B prison in the south of England would skew the locational requirement for a second prison within the country. Rather than serving a national need, it would then be the northern *'region'* of the country. The North would become a much more logical location for an additional Category B prison.
- 8.35 Rather than dealing with Category B prisons on a regional basis, elsewhere the Planning Statement notes that they need to be considered as a national resource, due to the long-term

sentences of the prisoners held in these facilities (CD A2 paragraphs 7.14, 7.27 – pages 26 and 27). This has led to the assertion within paragraph 7.37 (page 29) that the site is easily accessible to the north and south to serve a national remit and thus fulfils the requirements of the prison.

8.36 The inaccessibility of the prison by anything other than private vehicle has been concluded within Section 6 above. This was one of the secondary requirements supposedly for site selection by the MoJ (CD A2 page 28 para 7.33). The statement made by the Appellant, that the site is accessible to the north and south is therefore simply untrue, when considered against the requirements of the NPPF and expected multi-modal options that is also ingrained into the Harborough Local Plan.

8.37 It also has some quite important implications for travel distances/times and the number of visits inmates' family and friends will be able/afford to make, which could directly affect the inmates' mental health and overall ability to be reformed; this is considered further within the socioeconomic section, as part of the mental health of inmates.

8.38 The onus is on the Appellant to provide a clear and reasoned justification for the strategy to expand the existing prison system, and as a result the sites that have been selected. It is currently unclear exactly what the strategy is for the prisons, and as such whether it is most appropriate to provide an additional Category B prison in the East Midlands.

Need for a Category B Prison in the East Midlands

8.39 In terms of the location and capacity of Category B prisons, there are 38 prisons located across England. The number and scale of prison places varies between regions, with the lowest number of existing facilities in Yorkshire and Humberside and the South-West. This highest number of prisons is in the East Midlands and Greater London. The highest number of places are also present within Greater London, the East Midlands and also the North-West. This information is set out in Table 1 below.

Table 1: Category B prison provision and regional distribution

Geographic Area	Number of Category B Prisons ^{*1}	Current Category B Prisoner Places in Area ^{*1}	Population of Area (2020) ^{*2}	Ratio Prison Places to Population
North East	2	2,200	2,680,763	1 per 1,219
North West	5	4,874	7,367,456	1 per 1,512
Yorkshire & Humberside	2	2,245	5,526,350	1 per 2,461
East Midlands	6	4,334	4,865,583	1 per 1,123
West Midlands	3	3,060	5,691,929	1 per 1,860
East of England	4	2,778	6,269,161	1 per 2,256
Greater London	6	7,232	9,002,488	1 per 3,060
Kent & Essex	3	2,942	9,217,265 ^{*3}	1 per 1,330
South Central	5	3,990		
South West	2	1,060	5,659,143	1 per 5,339

*1 Calculated using information from www.gov.uk

*2 Source: www.statista.com

*3 Statistic covers 'south-east', combining Kent & Essex and South Central areas

8.40 Whilst the number and scale of facilities is important information, understanding the quantum of provision in respect of the population within that region is fundamental. Unless prisoners have specific requirements, the aim is to place them within a local prison. The population of a region can therefore be used as a broad indicator as to the expected highest and lowest demand areas for additional capacity. This has been calculated and shown within Table 1, citing the East Midlands as the region with the best ratio of Category B prison places to population. The lowest additional demand for spaces in this category of prison is therefore likely to be the East Midlands, thus any facility located in this region would principally be serving requirements elsewhere in the country.

8.41 Table 1 also highlights that the highest figures for the ration of Category B prison places to population is in the South-West, London and Yorkshire and Humberside. These locations fall within the remit of the north and south areas; namely, those originally noted as the areas of need.

8.42 Placing the prison within the Midlands, and in particular the East Midlands does not make it particularly accessible to any of the areas in greatest need, and in particular the South. Again, if RAF Weatherfield comes forward for an additional Category B prison, this would serve the south-eastern region, London and to some extent East of England (albeit not particularly conveniently). A logical second Category B prison would then be required in Yorkshire and

Humberside, dovetailing essentially with the recently approved HMP Full Sutton location, just for the incorrect prison category.

- 8.43 From the information presented, it is not considered clear that the new prison is most appropriate to be located within the East Midlands. This is due to the main requirement for additional Category B prisons being stated by the Appellant as the north and south. Providing a single facility in the middle seems to not fit with each locational demand, whilst if RAF Weatherfield comes forward, it would be much more logical to consider a second site further north.

Need for a Category B Prison at Gartree

- 8.44 On the assumption that it is accepted that the East Midlands is the appropriate location for a new Category B prison, questions are raised in respect of the selected site at Gartree. Accessibility is a secondary requirement set out by the MoJ as part of the site selection process (CD A2 page 28 paragraph 7.33). Section 6 above concludes that the site has no realistic travel alternatives to the private vehicle, contrary to paragraphs 104 and 105 of the NPPF and the sustainability aims of Policy SS1 of the Harborough Local Plan.
- 8.45 Furthermore, in respect of the appeal site, it is Greenfield land. A tertiary requirement for the site selection process was for it to be previously developed/brownfield land (CD A2 page 28 paragraph 7.34). Again, if it is accepted that the new facility needs to be within the East Midlands, some previously developed land would be expected to be available. Again, the lack of the alternative sites considered offers no clarity on this matter.
- 8.46 Given the requirement list set out for a suitable site for a new prison, Gartree 2 does not fulfil some of the main requirements. Without additional justification that there are no alternative sites, the case for needing to provide a new prison at Gartree is not robust and therefore cannot be afforded much weight within the planning balance.

Need Conclusions

- 8.47 Whilst it is accepted that additional prison places are required, the information presented offers no transparency as to how this should be delivered or why the selected sites have come

forward. The strategy appears to keep being realigned by the MoJ and the logic to providing a single prison in the East Midlands, when the clear need is outside of this region is flawed.

- 8.48 From a planning policy perspective and aligning with some of the key parameters for the MoJ's site selection, the new prisons are expected to be located where they are accessible by a range of transport modes. Typically, this would be located within or adjacent to large settlements, and ideally on previously developed land. In this instance, a Greenfield site in a countryside location, away from existing urban areas, has been selected without justification. It is also not expanding an existing facility but introducing a new facility in the countryside with no justified need to be in this specific location. The onus is on the Appellant to provide the justification; this has not been provided and thus represents a fundamental failure of the appeal evidence base. The proposal is therefore contrary to Policies SS1, GD1, GD2 and GD3 of the Harborough Local Plan and Policies LNP16 and LNP19 of the Lutterworth Neighbourhood Development Plan.
- 8.49 The need for the proposal has not been robustly established to support a new prison at Gartree or within the East Midlands, thus only moderate weight should be afforded to the provision of additional prisoner places.

Impact on Mental Wellbeing of Inmates

- 8.50 The proposal will generate additional prison places. It is indicated that this will meet part of an identified national need. Moreover, it will provide these new places within safe, modern facilities, offering the potential for improved outcome to prisoners, reducing reoffending rates. This should be considered positively.
- 8.51 However, it is strongly challenged whether Gartree is the correct location for such a prison in terms of its accessibility, resulting in a need for all journeys by car. A Prisoner Survey (CD J19) of HMP Gartree was undertaken in 2017, asking various questions in respect of the views on the prison's operation. In particular, question 8.4 asked *'is it very / quite easy for your family and friends to get here?'* (page 95). Only 22% of respondents agreed with this statement, indicating conversely that 78% considered that it was not easy to get to the prison. There is no evidence to suggest that Gartree 2 would be more accessible to visitors than the existing neighbouring prison, causing issues for visitors.

- 8.52 Within the benefits and intentions of the new prison programme, much is heralded about the importance of supporting prisoner welfare and encouraging them to better themselves so that they do not reoffend. Accessibility is seen as a key element within the MoJ Lord Farmer report (August 2017) 'The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime' (CD J20). Recommendation 1 of this report states that *'All new-build prisons should be subject to the Government's Family Test and required to produce a family impact assessment that should be published.'* This does not appear to have occurred for Gartree 2, and thus represents a failure to ensure that the approach selected for a *'single'* national prison to meet the country's needs reflects the best welfare of inmates.
- 8.53 Placing prisoners in a different region to which they previously resided, in a location which is not easily accessible, is likely to result in few visits by friends and family, particularly children. Long car journeys will discourage visits to prisoners, which will affect their morale and the frustrations at being incarcerated. As a result for a new facility at Gartree, only moderate weight is afforded to this benefit.

Apprenticeships and Training Opportunities

- 8.54 The provision of a new prison will lead to local apprenticeships, training and supply chain opportunities, during both the construction and operational stages of the development. The number of opportunities created though will only ever be low and no guarantees on exactly what opportunities or how many can be given. Only limited weight is therefore afforded to this benefit.

Open Space Upgrades

- 8.55 Upgrading of the open space for use by the local community is cited by the Appellant as a benefit. This is understood to only be an informal use of the space, so fundamentally it could be taken away at any point; the Appellant has not indicated that this would occur, it is commented simply to indicate that any benefit may not be permanent/long term. The space in question forms Area 3 of the site, a small triangular parcel of land to which new play or sports equipment has been indicated to be installed. No specific details on this have been stated, and it is an indirect offer of a benefit by the Appellant. Only limited weight is therefore attributed to this matter.

Financial Contributions

- 8.56 A financial contribution is being made towards upgrading the public transport (bus route 44) and footpath upgrades; this will also offer a benefit to local residents. However, exactly how this money will be spent has not been defined, but it is expected that it will be to provide an additional bus service for a four year period. This is therefore potentially only a temporary enhancement for public transport, and as discussed in Section 6 above, it realistically needs to be in the form of an additional early morning bus. The benefit to locals is therefore likely to be very limited. Only limited weight is therefore afforded to this matter.

Highway Safety

- 8.57 In terms of harm, despite the proposed road signs, there will undoubtedly be some additional through traffic along Welland Avenue. Whilst this may well be travelling slower, close to the proposed traffic calming at the southern end of the residential cluster, there will be additional associated movements which will have the potential to reduce highway safety to residents of Gartree. Only limited weight is afforded to this matter.

Perceived Harm to Safety of Local Residents

- 8.58 Concern will also be raised by residents over the proximity of living so close to a significantly larger prison (circa 2500 prisoners between Gartree 1 and 2). Location of residence though is a choice, with the Gartree prison in place before any of the surrounding housing was sold. Anyone purchasing a property in Gartree therefore did so knowing there was a prison in close proximity. Only very limited weight is therefore afforded to this matter.

Social Sustainability Conclusions

- 8.59 Overall, it is recognised that there are moderate social benefits as a result of this proposal.

Environmental Sustainability

Energy Efficiency of New Prison

- 8.60 The Appellant has asserted the efficient use of land and the delivery of a high quality, energy efficient prison as a benefit. In reality, any proposal would need to meet current Building Regulation standards, thus delivery of a building in accordance with requirements should only be afforded very limited weight. The same is also true for the provision of cycle parking and electric car charging points; these are planning policy requirements and thus only very limited weight can be attributed to these matters.

Heritage Assets

- 8.61 It is agreed between the Appellant and Council that the proposal will have no impact upon heritage assets. Given the scale of the scheme, this is a positive situation for the development, to which moderate weight should be afforded.

Biodiversity Impact

- 8.62 The scheme is set to deliver biodiversity gain, noted to be in the order of 25%. This in itself should be afforded significant weight. However, from an ecological perspective, the design of the scheme fails to address the ability to maintain any of the protected species' habitats on site. This includes the loss of badger setts and a pond containing Great Crested Newts. The loss of habitat to these protected species needs to be afforded at least moderate weight, and thus offsets much of the benefits muted through the biodiversity enhancements.

Countryside Impact

- 8.63 The key negative aspect of the appeal proposal is the impact upon the countryside and views from public rights of way within it. The change to these views will be significant, with new four storey buildings located in the countryside. As a result, as outlined in the Landscape Proof of Evidence by Mr S Neesam, significant weight should be afforded to this matter and the resultant conflict with policy.

Area of Separation Impact

- 8.64 The proposal results in a 20% reduction in the Area of Separation between Gartree and Market Harborough. There are footpaths that connect directly between these two points, thus the perception of separation will be notably eroded, particularly given the height of the structures proposed. This reduction in separation, once lost, cannot ever be recreated. It is also directly contrary to policy and thus is afforded significant weight.

Loss of Agricultural Land

- 8.65 The proposal will result in the loss of 25.3 hectares of Grade 3b Agricultural Land. Whilst this is not of the highest quality, it still represents a reduction in the availability of agricultural land. It is however questioned whether previously developed land could be brought forward in a different location, negating the need to lose any agricultural land. Recent prison constructions at HMP Five Wells and HMP Fosse Way both highlight that previously developed land within the region is available, in accordance with paragraph 119 of the NPPF. Limited weight is afforded to the loss of agricultural land.

Lighting Impact

- 8.66 The proposal, as a result of its use, needs to have high lighting columns around the perimeter of the site. These need to be operational all night. Even with directional white lighting, it will still cast illumination over what is currently a dark sky. This has the potential to influence wildlife behaviour in the area, and directly impact upon the enjoyment of local residents and users of the public rights of way. Moderate weight needs to be afforded to this matter.

Alternative Transport Options Limitations

- 8.67 The countryside location of the site means that alternative transport modes are not readily available. There is a reliance expected for journeys by private motor vehicles. This will result in harm to the environment as a whole, which is exacerbated by the expected long journeys for most employees (up to 40 miles noted for most of the employees, with very few from within the District) and the very long distances potentially travelled by prisoner visitors. The quantum and length of car journeys is contrary to the Government aims to reduce travel

distances and dependency on private motor vehicles, contrary to the NPPF and Development Plan. Very significant weight needs to be attributed to this matter.

Air Quality Impact

- 8.68 Some harm is identified in the technical reports to air quality, but this can be mitigated to keep it within acceptable levels. Limited weight is afforded to this matter.

Surface Water Impact

- 8.69 Mitigation is also noted as being required to control surface water runoff and prevent potential flooding elsewhere. This is shown to be capable within the information provided, thus very limited weight is afforded to this harm.

Environmental Sustainability Conclusions

- 8.70 In conclusion on environmental harm, significant harm is considered to occur primarily due to the unsustainable location of the site and the resultant harm of the development on the countryside and Area of Separation and associated policy. The environmental benefits fall well below the necessary level to offset these harms.

Planning Balance Conclusions

- 8.71 There are a number of benefits and harm resulting from this proposal. The delivery of new prison accommodation and the creation of new jobs and economic spend are identified as the key benefits, although the weight afforded to these locally is tempered due to the lack of clarity of the exact figures and need for the facility to be delivered in the East Midlands and more specifically at Gartree.
- 8.72 In contrast to the moderate benefits overall, identified for economic and social sustainability, significant and permanent harm is identified to environmental sustainability. This results from the inability to realistically access the site by any form of transport other than private vehicle, and the harm caused to the countryside and Area of Separation designation.

- 8.73 The environmental harms are considered to outweigh the benefits and as such under the definition of the NPPF, the appeal proposal is not considered to be sustainable development. This is reinforced by the conflict noted with the sequential approach to development set out in the Harborough Local Plan (Policies GD1 and GD2), HLP Policy GD3 on countryside, HLP Policy GD4 on Landscape Character, HLP Policy GD6 and Lubenham Development Neighbourhood Plan Policy LNP1 of Areas of Separation and LNDP Policies LNP16 and LNP19 on employment development location and scale.

Degree of Conflict with the Development Plan

- 8.74 The starting point for assessing development proposals is always the Development Plan. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states *'if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise'*.

- 8.75 The decision notice (CD A75) cited conflict with the following policies of the Development Plan:

Harborough Local Plan

- Policy GD1: Sustainable Development.
- Policy GD3: Development in the Countryside.

Lubenham Neighbourhood Development Plan:

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

- 8.76 The conflict with each policy is considered in turn.

Policy GD1: Achieving Sustainable Development

- 8.77 This policy is seeking to adopt the same approach as the NPPF to supporting sustainable development and resisting schemes that do not meet this aim. The supporting text to this

policy (CD I1 page 25 paragraph 4.4.2) notes that Harborough District needs to be sustainable by:

- (a) supporting the local economy,
- (b) by providing social benefits,
- (c) by protecting and enhancing the natural and built environment and
- (d) by reducing the need to travel, particularly by private car.

8.78 The content of this policy directly aligns with the NPPF, in particular paragraphs 7 – 11. Full weight should be afforded to this policy.

8.79 As outlined in Section 6 above, the site is not considered to offer realistic alternatives to a private vehicle. It is also likely to be cited a significant distance from many persons who would use the facility, creating long journeys. This specifically contradicts clause (d) on reducing the need to travel and reliance on the private car.

8.80 Gartree is not identified as a suitable location for any largescale development and forms a lowest order settlement. Provision of a largescale prison facility with 1715 inmates and 778 staff directly contradicts the expected settlement hierarchy for new development set out within Policy SS1, reinforcing the quantum of conflict that results from the physical location of the site and thus conflict with clause (d) on sustainability.

8.81 As set out within Mr S Neesam's Proof of Evidence and summarised in section 7 above, the appeal proposal is considered to have a significant, permanent impact upon the landscape setting of the area, affecting views from a number of footpath locations and the countryside appearance in this location. The level of harm generated results in the proposal failing to accord with clause (c) of Policy GD1.

8.82 As illustrated in greater detail within the economic, social and environment balance below, the scheme, as a whole, is not considered to represent sustainable development. This includes conflict with other policies in the Local Plan and Neighbourhood Plan, as discussed below. Within robust justification for the proposal being needed in this location, it simply adds to the conflict with Policy GD1. Significant weight needs to be afforded to the conflict with this policy.

Policy GD3: Development in the Countryside

- 8.83 The appeal site is identified as countryside. Policy GD3 sets out a number of uses that are acceptable within the countryside. It is accepted by the Appellant and noted in the Statement of Common Ground (CD C3 page 14 paragraph 6.1) that the proposal is contrary to Policy GD3. A prison is not one of the accepted uses noted within clauses a – k of Policy GD3. Clause l allows for other uses which justify and are compatible with a countryside location. The Appellant has accepted that the proposed prison does not fall within the open-ended uses potentially acceptable under Clause l.
- 8.84 In terms of the uses noted as acceptable, these are all rural land uses which are able to be assimilated into the countryside so that they do not harm its intrinsic value and rural character. The aim of this policy aligns with Chapter 15 of the NPPF to conserve and enhance the natural environment and includes scope to allow for small-scale rural enterprise in accordance with paragraphs 84 and 85. Full weight should therefore be afforded to this policy.
- 8.85 In terms of the integration of the proposed prison with the countryside and the site itself, it would remove 25.3 hectares of agricultural land, and the vegetation and habitats located within. This includes a pond with Great Crested Newts and various badger setts. The scheme does not sensitively integrate any of the positive features on the site.
- 8.86 The appeal scheme occupies a hilltop location, meaning that it is visible from a number of vantage points, causing significant harm to the open character and appearance of the landscape, through the cumulative impact of an urban style proposal. The proposed landscaping does not mitigate this harm. To this end, the proposal also does not accord with Policy GD5. Full consideration of the harm to the countryside is provided with Mr S Neesam's Proof of Evidence.
- 8.87 Whilst it is recognised that the proposed landscaping does little to offset the harm to the countryside setting, there are two points also worthy of note. Firstly, inappropriate development should not simply be considered appropriate because it can be screened. If this is necessary then it simply underlines the fact that it is in the incorrect location; the open countryside in this instance.

- 8.88 Secondly, the Landscape Character Area within which the site is located does not incorporate tree belts. The provision of a linear belt of trees, 700 metre along to the southern edge of the site and 250 metre along the eastern edge, will be out of character for its immediate setting, drawing further attention to the development rather than assisting in concealing the development.
- 8.89 The harm to the countryside illustrates that the proposed use is not compatible with the countryside location. Nor is it small-scale to warrant it being an exception. Significant conflict occurs with this policy, which should be afforded significant harm.

Policy LNP01: Lubenham and Gartree Area of Separation

- 8.90 This policy was integrated into the Lubenham Neighbourhood Development Plan to protect the individual identities of the settlements. This incorporates Lubenham, Gartree and Market Harborough.
- 8.91 Particular reference is made in the LNDP to the Harborough District Core Strategy and Policy CS13, which defined a Strategic Development Area (SDA) to the north-west of Market Harborough; much of this land falls within the LNDP area. In March 2015, permission for the SDA was granted and construction of 1500 homes and a link road is currently underway. This substantially reduced the separation distance between Market Harborough and Lubenham/Gartree, with careful consideration of the acceptable extent of development for the SDA undertaken through extensive landscape assessments as part of the then Core Strategy adoption process.
- 8.92 It should be noted that Lubenham Parish (and so the study area of the LNDP) encompasses a number of individual areas of development:
- the main, historic village of Lubenham to the south of the parish, though which the A4304 passes, and which contains a variety of building styles and ages;
 - the aforementioned SDA, which extends out from the north-western edge of Market Harborough into the eastern portions of the parish;
 - Gartree, a mix of houses dating from the 1960s, originally built as officers' quarters for the adjacent prison but now mostly in private ownership;

- Bramfield Park, a registered caravan park on the A4304 on the southern edge of the parish and to the south-west of Lubenham village; and
- Greenacres, a designated gypsy and travellers' site on the eastern edge of the parish and close to its boundary with Market Harborough.

8.93 Views expressed by local residents during the consultation for the preparation of the LNDP encompassed a number of themes, including [my emphasis]:

- Protect and retain the rural character, community spirit, culture and heritage of the Parish and keep it separate from Market Harborough.
- Protect Lubenham open spaces, natural environment biodiversity and access to the countryside.
- Minimise the impact on the Parish of negative influences including high volumes of traffic, speeding traffic, parking, flooding and overdevelopment.

8.94 The LNDP *"recognises that the proposed North West Harborough SDA [much of which is in Lubenham Parish] will have a significant impact on the area. It recognises the need to safeguard the individual character of the Lubenham settlement by [amongst other things] ... maintaining a separation area to the east of the village ..."*

8.95 Policy LNP01 encapsulates the aims of the local community to maintain the separate character and identities of the locations. The area of separation as drawn on the plan seeks to ensure separation of all three locations from each other (Market Harborough, Lubenham and Gartree). It is clear that Lubenham and Gartree are identified as two separate locations, but are simply within the same parish boundary.

8.96 Policy LNP01 states that development within the Area of Separation will be permitted, subject to two clauses:

- (a) *it would not diminish the physical or visual separation between built up areas associated with these settlements; and*
- (b) *it would not compromise, either alone or in conjunction with other existing or proposed development, the effectiveness of the Area of Separation in protecting the identity and distinctiveness of these settlements.*

- 8.97 The appeal proposal partially covers the Area of Separation designation. The proposed layout (CD A48), whilst it is only indicative, represents the assumed layout of the site. The quantum of buildings proposed will limit the options for its development at the scale proposed, thus it can be readily assumed that the extent of the buildings across the site will be reflective of any scheme that is brought forward.
- 8.98 The proposed layout provides at least 3, four storey house blocks within the Area of Separation, along with at least part of the two workshop buildings and the Central Services Hub. Built development will therefore be placed within the Area of Separation.
- 8.99 The appeal site is located to the south of the existing Gartree prison. Lubenham is located to the south of the appeal site and Gartree 1. Currently the Area of Separation between these two locations is 1030 metres. Circa 269 metres of this falls within the appeal site and will be lost as a result of the proposal. This would result in a 26% reduction in physical length in a north/south direction.
- 8.100 Turning to the relationship towards Market Harborough and the SDA currently under construction, the east/west measurement of the Area of Separation is 718 metres. 278 metres of this distance falls within the appeal site, which would equate to a reduction in the distance by 39%.
- 8.101 The reduction in two directions of the Area of Separation of 26 and 39% physically reduces the separation between the built-up areas. This reduction represents a significant change, and results in the proposal clearly conflicting with clause (a) of Policy LNP01.
- 8.102 The visual impact and effectiveness of the separation incorporate some overlap, covering a second point within clause (a) and then clause (b). Section 7 above and Mr S Neesam's Proof of Evidence, highlights the impact that the proposal would have upon the character of the Area of Separation. It would introduce a significant scale development into this space, making the built environment much more prominent and bringing it visibly closer to both Lubenham and Market Harborough. The proposed landscaping does little to reduce the harm and visibility of the appeal scheme. This is identified through Viewpoints 8 and 9 in particular, to the impact upon the Area of Separation (see Appellant's LVIA Appendix C – CD A9).

- 8.103 The SDA to Market Harborough has also brought development to the east much closer to Gartree in recent years; this development would further reduce the separation between the locations and the visual separation associated with each settlement.
- 8.104 The appeal scheme is therefore considered to harm the overall function of the Area of Separation, contrary to clause (b) of Policy LNP01. This second clause also dovetails with the contents of Local Plan Policy GD6, reinforcing the conflict with the Development Plan.
- 8.105 Protecting the identity of settlements is an important role of the planning system. In this instance there is a specific policy seeking to protect the settlements of Lubenham and Gartree. The appeal scheme encroaches on the Area of Separation and undermines the function that this designation makes to protecting the settlements. Significant weight should be afforded to the conflict with Policy LNP01.

Policy LNP19: Gartree

- 8.106 This policy notes that *'limited and small-scale employment/business development may be supported on environmentally acceptable sites in Gartree'* (my emphasis). There are two immediate elements of conflict between the appeal proposal and the opening section of Policy LNP19. The proposed development at up to 82555square metres cannot be considered limited or small in scale. It is also not on land located *in* Gartree, but land adjacent to. The scale and precise location of the development is therefore contrary to this policy.
- 8.107 Policy LNP19 continues, setting out a number of clauses that should all be met in order for even limited/small-scale employment to be considered acceptable. These clauses use the word *'and'* between them, meaning that all need to be complied with, in order to accord with the policy. The first clause is that the proposal needs to relate to the conversion and re-use of appropriately located and robust existing buildings. The construction of new buildings, as proposed through this appeal is not therefore envisaged. This re-emphasises that the proposal does not comply with this policy.
- 8.108 The accompanying text (CD I2 page 28 paragraph 5.52) highlights that there are some redundant MoJ buildings within Gartree. It is the re-use of the structurally sound, disused

buildings that are being considered as acceptable for redevelopment within Policy LNP19. This clarity reinforces the conflict of the proposal for a new prison on a Greenfield site adjacent to Gartree.

- 8.109 The lower order status of Gartree reflects the acceptance only for small scale development, aligning appropriately with the sequential aspects of the Local Plan (Policy SS1) and the sustainable development approach (Policy GD1 and the NPPF). Only small-scale development should be acceptable in Gartree. The appeal scheme generates significant conflict with the intentions of this policy.

Policy LNP16: Proposals for new business/employment development

- 8.110 Policy LNP16 relates to the Neighbourhood Plan as a whole and outlines the ability to support new business/development. It again sets out a number of clauses, to which a proposal needs to comply with them all.
- 8.111 Clause (a) is that the proposal needs to be of a scale, density and design that is appropriate to its setting and would not cause damage to the qualities, character and amenity of the area and its residents. Gartree is a small collection of 84 dwellings, with an estimated population of around 210 (assuming 2.5 persons per property). The existing prison holds 700 inmates, which provides a disproportionate increase to the population of this settlement. If a further 1715 inmates are housed at Gartree then the quantum of inmates compared to the village would then be significantly dominated by the inmates (circa 92% of the population of Gartree).
- 8.112 The scale of the buildings in terms of their height would also not accord with the village character, incorporating 7, four storey buildings, within a village containing two storey houses. Most of the existing prison is also only two storey. The design of the house blocks as large plus shaped buildings, are also significantly out of character and scale to the modest structures currently forming the village of Gartree. The scale and design of the appeal proposal is therefore not in keeping with its setting. In part, this is not assisted by a generic design approach being taken to all new prison sites, with no consideration seemingly given to the local context.

- 8.113 It has already been covered in some detail within this Proof and the Landscape Proof of Evidence by Mr S Neesam, that the proposal will have significant harm to the character of the area. It is very evident that the proposal therefore does not comply with clause (a) of Policy LNP16 and thus does not accord with the policy as a whole.
- 8.114 It is clear from the intention of the policy that the scale of development expected within Lubenham Parish, is far below the 82555 square metres proposed though this appeal. Significant conflict therefore results with this policy.

Development Plan Policy Conflict Conclusions

- 8.115 The appeal proposal is in direct conflict with a number of policies contained within the Harborough Local Plan and the Lubenham Neighbourhood Development Plan. These policies go to the heart of the sequential approach to the location of development, which in turn undermines the sustainability of the proposal, causing harm to the environment. The appeal site has no realistic prospect of being reached by any non-private transport mode.
- 8.116 The site is designated as countryside and located adjacent to a lowest order settlement to which no new build development is expected. A significantly sized new prison would cause significant landscape harm to the surrounding area, a position that is not aided by its scale and design. It would also significantly decrease the scale of the Area of Separation between Gartree and both Market Harborough and Lubenham.
- 8.117 This conflict with the Development Plan is considered to be significant.
- 8.118 The material considerations are the benefits that result from the proposal. These relate primarily to the economic growth resulting from the proposal and the need for additional prison places at a national level. Information supporting the need in the East Midlands, and more specifically at Gartree, is limited, with key aspects of the background justification for site selection not before the Inspector. The weight to be afforded to need is therefore tempered accordingly.
- 8.119 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states *'if regard is to be had to the development plan for the purpose of any determination to be made under the Planning*

Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise'. No material considerations justify departing from the Development Plan. The appeal should therefore be dismissed.