



GARTREE ACTION

AGAINST THE BUILDING OF A MEGA PRISON
IN RURAL LEICESTERSHIRE



APP/F2415/W/22/3300227

APPEAL BY THE MINISTRY OF JUSTICE - LAND ADJACENT TO HMP GARTREE

PROOF OF EVIDENCE OF MR GEOFF ARMSTRONG

PLANNING

Proof of Evidence

Of Mr G Armstrong

Planning Matters

On behalf of:

Gartree Action (Rule 6)

In Respect of:

Land at HMP Gartree

PINS Ref:

APP/F2415/W/22/3300227

LPA Reference:

21/01600/OUT

Job Reference:

02122/S0001

Date:

September 2022

Contents

Qualifications and Experience of Witness

- 1.0 Introduction**
- 2.0 The Appeal Site and Surrounding Area**
- 3.0 The Appeal Application**
- 4.0 Planning Policy Context**
- 5.0 The Case for Gartree Action**
- 6.0 Summary and Conclusions**

APPENDIX GA1: Harborough SDA Masterplan

Qualifications and Experience of Witness

I am Geoff Armstrong and I will say:

I was formally instructed by Gartree Action to act on their behalf on this appeal in July 2022. Prior to that I worked on their behalf since March 2022 in representing them as an objector to the original planning application.

I hold a Bachelor of Arts Honours Degree in Town & Country Planning and I am a member of the Royal Town Planning Institute. I am a Director of Armstrong Rigg Planning of The Exchange, Colworth Science Park, Sharnbrook, Bedford. I have 37 years planning experience.

During this time, I have worked for several Local Authorities, including the London Docklands Development Corporation (LDDC) and Runnymede Borough Council, as well as DPP and Armstrong Rigg Planning. I have dealt with a wide range of retail, leisure, business, commercial, infrastructure and residential projects in a variety of locations, and have appeared as an expert witness at numerous Public Inquiries.

I am a Director at Armstrong Rigg Planning and before that was an Executive Director at DPP.

I have visited the appeal site on numerous occasions and am familiar with the locality.

The evidence which I have prepared and provide for this appeal reference APP/F2415/W/22/3300227 in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

1.0 INTRODUCTION

Introduction and Background

1.1 My evidence is submitted on behalf of Gartree Action (GA) in support of Harborough District Council's ('the Council') decision to refuse planning application reference 21/01600/OUT, for a new Category B prison up to 82,555m², at its planning committee on 5th April 2022 (committee report and addendum **CDs A72 and A73** and decision notice **CD A75**). At this committee members voted unanimously to disagree with the officer recommendation for approval on the grounds of the proposal's fundamental conflict with the development plan and the harm it would cause to the character of Harborough District's rural area.

1.2 Having been instructed to representing GA I can confirm that my evidence is provided on behalf of a wide and diverse range of residents all of whom are deeply concerned about the impact of the proposals on their communities. In total, the corporate group of GA seeks to represent the following public bodies:

1. Lubenham Parish Council
2. Foxton Parish Council
3. East Farndon Parish Council
4. Great Bowden Parish Council
5. Gumley Parish Meeting
6. Laughton Parish Meeting

1.3 During the application my company was instructed to assess the proposals and object on behalf of GA which culminated in the submission of my letter to the Case Officer, Mark Patterson, which was dated 22nd March 2022 (**CD B33**). Whilst upon my instruction I was presented with a range of concerns by GA that residents considered were reasons to oppose the proposals my advice to my client was to submit a representation that focused firmly on material planning grounds. On this basis, and following my analysis of the application, I was able to identify clear harm caused by the proposals that in my view should weigh heavily against it to the extent that planning permission should not be granted.

The Planning Case for GA

1.4 Central to my client's initial written objection were the following factors:

- The fundamental conflict of the proposals with the development plan relevant to the site, including its location in a strategic gap intended to maintain the separate identity of Gartree and Lubenham;
- Concerns in respect of the location of the site, adjacent to an unsustainable rural settlement and largely inaccessible via any transport mode other than private car;

- Clear errors and omissions in the site selection process which sought to justify the delivery of a substantial infrastructure project at a rural location; and
- Wider impacts on amenity and community cohesion brought about by the significant enlargement of an existing prison in the midst of several small and tranquil rural communities.

- 1.5 On the grounds of conflict with the development plan alone (a point which is not disputed by the appellant as per the Statement of Common Ground – SoCG – between the parties) paragraph 12 of the National Planning Policy Framework (NPPF – **CD H1**) states that "*permission should not usually be granted*" and that permission should only be released "*only if material considerations in a particular case indicate that the plan should not be followed*". Based on the harms identified in my objection letter I was clear that a sufficient case had not been made by the appellant to warrant the approval of the application, a point that was amplified by my colleague, Alex Munro, at committee and reflected by the Council's decision.
- 1.6 I now have the further benefit of the detailed evidence of Mr Simon Neesam, prepared on behalf of the Council, in respect of landscape impact. I can confirm that the Council has helpfully kept me up-to-date as Mr Neesam's evidence has evolved and I have been in receipt of several drafts prior to its finalisation. From an early stage in the preparation of Mr Neesam's evidence it was confirmed to me that the appeal proposal would cause additional and significant deleterious harm to the countryside, a further factor which weighs heavily against the proposal and is reflected in the Council's reasons for refusal.
- 1.7 My client's case is also now supported by extensive additional evidence in respect of the lack of need for the prison at this location and the flaws in the site selection process more generally (prepared by Ms Adele Rogers), the appellant's overstating of the socio-economic benefits that would be brought to the area resultant of the proposal (prepared by Mrs Diana Cook), and the unsustainable location of the appeal site (prepared by Mr David Hickie) which together considerably reduce the weight to be afforded to the claimed benefits of a new prison at this location.
- 1.8 It is anticipated that the appellant will seek to draw support from the Council's initial recommendation for approval in its report to committee to approve the appeal proposal based on the benefits outweighing the cumulative harms. These identified harms included the clear conflict with the development plan. However, it is my view that if officers had the benefit of the substantial suite of evidence in respect of need, socio-economic impact, and landscape impact that is now before the Inspector it would have led to a clear and inevitable recommendation for refusal rather than the finely balance recommendation in favour of the proposal described by the committee report.
- 1.9 In any event, and even in the absence of the additional evidence produced in advance of the inquiry, I also disagree with some of the other matters and weightings listed in the overall planning balance at Section 7 of the committee report which ultimately had a bearing on the officer recommendation. In fact, as identified in my client's Statement of Case, it is my view that the application should have been refused

at the time purely based upon a proper assessment of the benefits and harms of the proposal. Various matters were given an overstated amount of weight in favour of the proposals with various harms being downplayed.

- 1.10 The overall planning case of GA is therefore based on a simple proposition – that the planning balance should clearly weigh against the appeal proposal and that there are no mitigating material considerations that would overcome its clear conflict with the development plan. The appeal should therefore fail in accordance with paragraph 12 of the NPPF.

2.0 THE APPEAL SITE AND SURROUNDING AREA

Introduction

- 2.1 An agreed and detailed description of the appeal site is included within the Statement of Common Ground (SoCG) between the appellant and my client (**CD C7**). On this basis I do not intend to fully repeat these details in my evidence. Additionally, a thorough review of the landscape characteristics of the site and its assessment within existing landscape evidence has been undertaken by the Council's landscape witness, Mr Neesam, which I will also rely upon when concluding on harm in my planning balance exercise.
- 2.2 Instead, considering that two of the key elements of my client's case relate to (i) landscape harm and (ii) the accessibility of the site I now provide a summary of its relevant attributes in respect of both matters. This summary is informed by my own observations gained from a site visit on 24th August 2022 as well as the evidence of Mr Neesam, the evidence of Mr Hickie, and the committee report relating to the application.

Landscape and character

- 2.3 The appeal site comprises an extensive tract of land across three parcels extending to 28.9ha in total. Based on my own plotting using an Ordnance Survey base the site is just less than 3 times bigger than the existing HMP Gartree facility which extends to approximately 10.5ha. In policy terms the site lies in the open countryside and within an important area of separation between the settlements of Gartree, Lubenham, and Market Harborough as identified by the adopted Lubenham Neighbourhood Plan.
- 2.4 The appeal site wraps around the entire southern boundary of the existing HMP Gartree and the adjacent Gartree estate. As identified at paragraph 2.2 of the committee report and agreed in the SoCG the site contains several natural landscape features including trees, hedgerows, and a brook, all characteristic of the surrounding rural environment. Save for the largely overgrown remnants of the former RAF Market Harborough, which include a small collection of buildings lining a derelict runway, the site is currently undeveloped. Indeed, most of the site comprises gently sloping grassland, grazing land and pastureland in keeping with the wider open countryside to its immediate south, east and west.
- 2.5 The site is abutted by a well-used public footpath linking Foxton to Lubenham (A22), part of the popular Foxton Locks to Lubenham circular walk, which runs along the southwestern boundary of the site for the first 175m south of Welland Avenue. My own observations of the site, following a walk along this path specifically, are as follows:
- It has a character that is in keeping with the extensive agrarian landscape to the south. The site is open and rural in nature and visually better related to the wide field system separating Gartree, Lubenham and Market Harborough than the existing prison complex.

- The part of the site lying immediately to the north of the Foxton to Lubenham path, currently an open area of rough grazing, forms part of the rural setting of the right of way. The current prison, whilst visible to walkers, can only be glimpsed through an established belt of mature trees which largely screens it from views from the south.
- Upon crossing the brook which dissects the appeal site the path then emerges into a demonstrably rural environment characterised by paddocks and small enclosures.
- A further right turn then leads users of the path to walk directly towards the southernmost corner of the appeal site, a point which currently lies over 0.5km beyond the southernmost building of the existing prison. At this point the site could reasonably be perceived as lying deep in the open countryside.
- The return walk from Lubenham towards Foxton would result in the near ground of the landscape being dominated by the new prison. Whilst these views are currently set against the backdrop of the existing prison the new facility would be far less contained by intervening woodland and field lines and would create an almost entirely urban and industrial feel to this area of the countryside.

Accessibility

- 2.6 In terms of accessibility the site does not lie adjacent to a main urban area or any classified 'A' or 'B' road. The prison lies approximately 3km by car from the main A6, accessible via the B6047 Harborough Road and then the unclassified Gallow Field Road. The main vehicular entrance to the site is from the unadopted Welland Avenue which essentially serves as a residential access road for the homes forming the small Gartree estate adjacent to the existing prison.
- 2.7 The site is not accessible via any continuous lit or surfaced public footpath or pavement leading from a local population centre such as Lubenham, Foxton or Market Harborough. Whilst there is a footpath leading through Gartree itself this terminates at either end of the estate and prior to reaching the appeal site. The only footpaths which do lead to the site from other settlements are those walked on my site visit which comprise grassy and muddy public rights of way leading over fields. Similarly, there are no dedicated cycleways leading to and from the site with cyclists required to share the busy local road network.
- 2.8 There is a bus service which stops at irregular intervals at Welland Avenue throughout daytime hours between 6:48am and 6:18pm. However, this does not run on a Sunday or on Bank Holidays. The duration and frequency of this service is identified in the appendices of the appellant's Transport Assessment **CD A10**.

3.0 THE APPEAL APPLICATION

Submission of the Appeal Application

3.1 The appeal application was submitted on behalf of the appellants and validated on the 10th September 2021 and given reference number 21/01600/OUT. The appellant's accompanying planning statement (**CD A2**) proposed the following description of development (which was not included as part of the application form):

"Outline Planning Application with all matters reserved except for means of access and scale for the construction of a new Category B prison of up to 82,555sqm GEA within a secure perimeter fence together with access, parking, landscaping and associated engineering works on land adjacent to HMP Gartree, Gallow Field Rd, Market Harborough, Leicestershire LE16 7RP."

3.2 The application was confirmed as valid on 20th September 2021.

3.3 As is summarised in the committee report from paragraph 3.42 to 3.52 the application was preceded by a programme of pre-application engagement facilitated by the appellant. It included a series of online meetings with a list of Ward and Parish Councillors as well as residents of the Gartree Estate. It then comprised a face-to-face public meeting at Lubenham Village Hall followed by an open consultation period. Further public consultation events (online) were held beyond the submission of the application and during its determination period including a webinar and three further face-to-face sessions.

3.4 These consultation events allowed the public to return comments to the Council on an informed basis, having been able to understand the likely consequences of the appeal proposal on the local community, its environment, and the local highways network. Resultantly separate objections were raised towards the application by the following parties, all of whom serve as representatives to the local public:

- Cllr Paul Bremner (Lubenham Ward) (**CD B21**)
- Lubenham Parish Council (two submissions on 15th and 29th October, both objecting - **CDs B17 and B22**)
- Foxton Parish Council (**CD B16**)
- Market Harborough Civic Society (**CD B20**)
- Great Bowden Parish Council (**CD B29**)
- East Farndon Parish Council (**CD B25**)

3.5 In addition, paragraph 4.2 of the committee report confirms that 100 properties were formally notified by the Council as part of its own duty to publicise the proposal. However, an overwhelming 364 objections were received extending significantly beyond the number of properties consulted.

3.6 My own company, Armstrong Rigg Planning, was then instructed in March 2022 to undertake a professional review of the proposals and present my views on the application to my client. On review of the proposal, I identified clear conflict with the policies of the development plan along with a range of additional concerns already raised at length by my clients (who represent several of the objectors listed above). In short, it was my conclusion that the appeal application should have been refused with its conflict with the development plan principal amongst my reasons. Armstrong Rigg Planning's objection, on behalf of the 7 public bodies listed at the start of my evidence, was submitted to the Council on 22nd March 2022.

Determination of the Appeal Application

3.7 The application was recommended to the Council's planning committee for approval based on a planning balancing exercise which, in my view, included flaws in its weightings. It is also important to note that the Officer's consideration of the various material considerations weighed for and against the appeal proposal was undertaken without the benefit of the full suite of robust evidence now with the Inspector in respect of need, socio-economic impact, accessibility, and landscape impact. As the inspector will note the production of this further information has now resulted in the Council itself being able to confidently defend its refusal of the application and significantly substantiate the harm it presents in respect of impact on the landscape and conflict with the development plan.

3.8 In disagreeing with the recommendation of the committee report, members voted unanimously to refuse the application for the following reason:

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

3.9 Whilst this principally reads as a landscape reason for refusal (I contend in my following section that that the omission of Policies GD5 and GD6 from its wording is clearly erroneous given the explicit reference to character and the Area of Separation) the inclusion of Policies GD1 and GD3 cut to the very heart of the district's spatial strategy in respect of sustainable uses in the countryside and the local plan's clear drive towards seeking sustainable development as a whole.

4.0 PLANNING POLICY CONTEXT

- 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. For the purposes of Section 38(6) of the Act the development plan relevant to this application comprises the Harborough Local Plan 2011 to 2031 (**CD I1**), which was adopted on 30th April 2019, and the Lubenham Neighbourhood Plan (**CD I2**), made on the 8th May 2017. The strategic policies of the development plan are less than 5-years old and therefore can be considered as up-to-date with reference to paragraph 11 of the NPPF. The appellant's Statement of Case (**CD C2**) does not seek to contest this conclusion in respect of either the Local Plan or the Neighbourhood Plan and does not seek to introduce any argument that the 'tilted balance' described by paragraph 11 of the NPPF is applicable.
- 4.2 National planning policy is provided for by the National Planning Policy Framework (NPPF), revised and published in July 2021, as well as the Planning Practice Guidance (PPG – **CD H2**) which was launched in March 2014 and has been continually updated since.
- 4.3 The NPPF is underpinned by a presumption in favour of sustainable development, described by paragraph 11 of the Framework, that explains the context within which planning decisions should be made. It recommends support for development proposals which accord with an up-to-date development plan.
- 4.4 Paragraph 12 provides the corollary in stating that "*where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan) permission should not usually be granted*". It then goes on to explain the exception, that "*local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed*". Essentially the benefits of the application must demonstrably outweigh any harm which would include the definitional harm caused by its conflict with the development plan.

Harborough Local Plan

- 4.5 The policies of the Local Plan relevant to the appeal application are identified at paragraph XX of the SoCG.
- 4.6 Two of the key policies of the Local Plan in respect of this appeal, and those cited in the reason for refusal, are **Policies GD1 and GD3**. However, I am also clear that the appeal proposal fundamentally conflicts with additional **Policies GD5 and GD6**. Indeed, whilst failing to reference these policies the reason for refusal is explicit in its conclusions that harm would be caused to both the landscape character and an important area of separation, the exact topics covered by these additional policies.

- 4.7 **Policy GD1 'Achieving sustainable development'** essentially reiterates the advice of the NPPF set out at paragraphs 11 and 12 in that applications that accord with the development plan should be approved without delay. Reference to this policy in the reason for refusal is therefore a clear indicator that the Council considers the appeal proposal to conflict with the development plan whilst also finding that it does not benefit from the overriding provisions of paragraph 12 of the NPPF.
- 4.8 **Policy GD3 'Development in the countryside'** represents the policy cited in the reason for refusal that is most clearly offended by the appeal proposal. The policy provides a list of development types that would be acceptable on land that is in the open countryside (it is agreed by all parties that the appeal site is indeed in the open countryside within the various SoCGs). This list in the main comprises small scale uses relating to tourism, sport and leisure, agriculture, existing residential properties, and rural enterprise. None of the first 11 criteria (a to k) are applicable to the appeal proposal. The only criteria that offer support for broader uses is the final criterion (l) which allows for *"other uses which justify and are compatible with a countryside location"*.
- 4.9 In any event it is agreed by the appellant in both the SoCGs with the Council and my client that *"the proposals are ... contrary to HLP Policy GD3"* and that *"it is therefore necessary to demonstrate that there are sufficient material considerations to outweigh any potential harm to the open countryside resulting from the proposed development"*.
- 4.10 The reason for refusal is clear in that the appeal proposal would have a *"harmful impact on the character of the countryside"*. **Policy GD5 'Landscape character'** in seeking to ensure development is *"sensitive to its landscape setting and landscape character area"* is therefore inevitably relevant and, based on the evidence of Mr Neesam, offended by the proposal.
- 4.11 In addition, the reason for refusal identifies the unacceptable impact of the proposal on the *"Area of Separation"* referring to the countryside between Gartree, Lubenham and Market Harborough as already designated in the Lubenham Neighbourhood Plan. **Policy GD6 'Areas of Separation'** states that development will be permitted where 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. Whilst the policy wording does not identify the Lubenham Area of Separation in its wording the supporting text at paragraph 4.11.3 identifies that the policy essentially seeks to identify new Areas of Separation whilst offering additional policy weight to those existing, as designated in the various neighbourhood plans across the district.

Lubenham Neighbourhood Plan

- 4.12 **Policy LNPO1** of the Neighbourhood Plan first identified the land intervening Gartree, Lubenham and Market Harborough as an 'Area of Separation'. The purpose of the policy, as clarified by its wording, is to *"preserve a visual separation from the settlement of Market Harborough and retain the distinctive*

character and separate identities of Lubenham and Gartree". In which case it is not solely a policy seeking to safeguard against coalescence but also one that seeks to preserve the rural character and setting of the plan area's two settlements.

- 4.13 **Policy LNP16** is a multi-faceted policy and seeks to govern the impact of new business or employment generating development on the plan area. The key criteria relevant to this appeal are (a) and (d) which respectively require such development to *"be of a scale, density and design appropriate to its setting such that it would not cause damage to the qualities, character and amenity of the area and its residents"* and to *"include/encourage links to existing walking and cycling networks"*.
- 4.14 Lastly, **Policy LNP19** provides a list of explicit typologies of new business enterprise that would be supported in the plan area, essentially comprising small-scale rural enterprise. None of the four criteria listed would apply to the appeal proposal.

5.0 THE CASE OF GARTREE ACTION

- 5.1 The case of GA is a simple one: on the clear agreement of all parties that the appeal application conflicts with the development plan it is considered that there are no relevant material considerations in favour of the proposal that would outweigh this conflict allied with the various other harms caused by the new prison. On this basis there is no provision in the NPPF to allow the proposal and this appeal must fail. It is a straightforward case of concluding that the planning balance demonstrably weighs against the proposal.
- 5.2 Having reviewed all the material factors in favour of and against the appeal proposal I am firm in my view that the harm outweighs the benefit. This is a view that I reached upon the assessment of the application prior to its determination and one that I am clear the Council should have reached if its own planning balance exercise, described at paragraphs 7.1 to 7.19 of the committee report, which consistently overstated the benefits and understated the harms. It included several matters stated as material and in favour of the proposal which ordinarily are simply and correctly weighed as policy necessities. As the Inspector will note, and with the benefit of the additional evidence presented towards this Inquiry, the conclusion that the planning balance should clearly tip against the appeal proposal is now a position that the Council and myself happily share.
- 5.3 My evidence now turns to this balance, starting with my conclusions on the extent of conflict of the appeal proposal with the development plan and the relevant negative weight to be derived from this conflict, and then assessing the impact of the proposal against the key material considerations identified in the committee report. To restate, I disagree with several the Council's original weightings, a point that supports my assertion that the appeal application should have been recommended for refusal in the first instance.

Conflict with development plan

The spatial strategy

- 5.4 The conflict of the appeal proposal with the development plan is not in dispute. The appellant recognises that the appeal site is in an open countryside location and that there are no provisions in either the Local Plan or the Neighbourhood Plan that allow the delivery of an 82,555m² prison on open land in the rural area. Indeed, the sheer scale of the proposal means that it doesn't only find an absence of support within the policy but in fact significantly conflicts with it.
- 5.5 The appeal site extends to 28.9ha. This represents a strategic scale of development which covers an area almost 6 times greater than the 5ha threshold at which point proposals may be eligible for Environmental Impact Assessment. The site of the current prison extends to approximately 10ha. The addition of the

appeal proposal would result in a residential penal facility in Harborough's rural area extending to approximately 40ha. The large numbers do not stop there. The proposal will employ 778 staff (on its payroll, but there will be additional external employees frequently visiting the facility including teachers, doctors, support workers) and will be anticipated to generate (including visitor trips) 1,358 movements by car, taxi or motorcycle each day (679 in and 679 out). It will have a residential population when full of 1,715 prisoners. In comparison the 2011 Census identified that the entire village of Lubenham had a population of 781 and Foxton a population of 478. The size of the appeal proposal and the numbers involved substantially exceed anything envisaged at such an open countryside location by **Policy GD3** of the Local Plan and would dwarf the surrounding rural communities, including the estate of Gartree itself.

- 5.6 The appellant will inevitably seek to justify the location, and potentially character impact, of the proposal with the fact that there is an existing prison at Gartree. However, the appeal proposal does not comprise a proportionate extension to the current facility. It does not even simply replicate the current modest facility. It is three times bigger. It would not be complementary to the existing prison facility and is entirely out of proportion, particularly considering the additional impact on what is a largely unspoiled area of open countryside to its immediate south.

Area of Separation

- 5.7 The inappropriate location of such a gargantuan facility is then compounded when it is considered that the appeal site lies within an 'Area of Separation' specifically identified by **Policy LNP01** of the Neighbourhood Plan as comprising an important area of separation between nearby settlements and land which forms a key part of the rural setting of the Gartree Estate. Principally this policy was introduced to avoid both the physical and perceived coalescence of Gartree and Lubenham with the western expansion of Market Harborough.
- 5.8 As specified by the Plan it is also a policy designed to preserve the character of each settlement. Paragraphs 5.4 and 5.5 state that *"it is vital that the character, heritage, and community spirit of the neighbourhood (referencing the plan area) is maintained and not compromised by inappropriate development. It is important that Market Harborough and Lubenham and Market Harborough and Gartree remain distinct and separate in order to maintain the rural setting and identity of each settlement"*.
- 5.9 On this basis it is a key consideration that the appeal proposal would draw the extended built-up area of Gartree 80m closer to the western extent of the boundary of the Northwest Market Harborough Strategic Development Area (currently 260m but would narrow to 180m, distances 'AA' and 'AB' of **Figure GA1**) and 100m closer to the nearest new dwellings as part of this development (current 600m but would narrow to 530m based on the approved masterplan – my **Appendix GA1**, distance 'BA' and 'BB'). The southernmost building of the new prison will also draw development 440m closer to Lubenham (currently 1,370m but this gap would narrow to 930m separation, distances 'CA' and 'CB'). Whilst this closing of the

gap with Lubenham admittedly cannot be perceived from the village itself due to the relief of the land it would be entirely apparent to users of the intervening footpath network. The distances used to inform my calculations are shown as part of **Figure GA1** below:

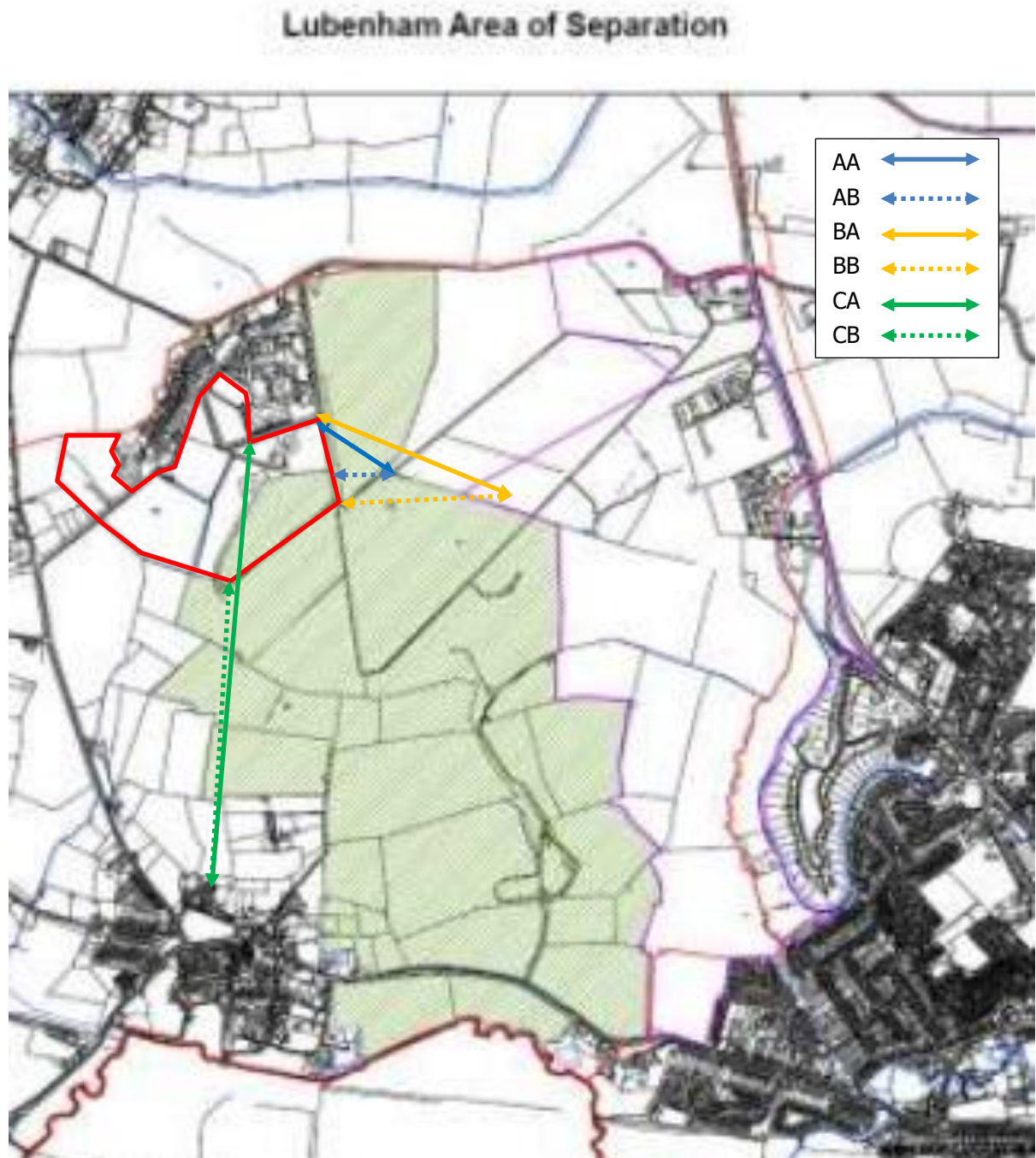


Figure GA1: Gaps between existing and proposed development

5.10 This level of encroachment, allied with the significant and character-altering expansion of Gartree, clearly does not sit within the allowances of either **Policy LNP01** or indeed **Policy GD6** of the Local Plan in respect of appropriate development in the Area of Separation. There is also no provision for this scale or type of development cited in **Policies GD3** of the Local Plan or **Policies LNP16 and LNP19** of the

Neighbourhood Plan. This, allied with the sheer scale of the contravention and the resultant impact of the proposals on the landscape, countryside and individual character of settlements (demonstrated in the landscape evidence of Mr Neesam and summarised in my evidence below), leads me to conclude that the harm caused by this fundamental conflict with the development plan is so great that it will require an unquestionable case to be put forward by the appellant to justify sufficient exceptions to deliver the appeal proposal here.

- 5.11 The committee report considers the conflict with the development plan in detail at paragraphs 6.4 to 6.18 and then again in summary at paragraphs 7.2 and 7.3. It appears to take two different approaches in its assessment, the first considering the development plan as a whole (local plan and neighbourhood plan) and ultimately concluding "*major negative policy conflict*" with its planning balance conclusions then separating the conflict with each tier of the development plan out, attributing "*significant weight*" against the proposal for each separate conflict.
- 5.12 The terminology and angle adopted by the two separate sections of the report are mixed – however, the direction of its conclusions is not, finding clear and unequivocal conflict with the spatial strategy and the function of the area of constraint between the local network of settlements. Considering the weight of concern raised by officers in this respect and translating the identified level of harm into my own consistent terminology, it is my view that this conflict should carry on the whole **very significant negative weight** against the proposal in the planning balance.

Landscape and Character

- 5.13 What is now entirely clear from the extensive additional evidence presented towards this inquiry is the true extent of the landscape harm caused by a development of this scale in what is a rural location. Whilst this would have been obvious at the point of the determination of the application, hence the nature of the reason for refusal, it had not been fully substantiated by a committee report that largely accepted the findings of the appellant's own landscape assessment.
- 5.14 On review it is considered by the evidence of Mr Neesam 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 SDA; and have a significant adverse effect on the visual separation of the two settlements, by reason of:
- The exposed nature of the site.
 - The introduction of an extensive area of buildings up to 4 storeys high and associated security fencing and car park in place of existing farmland.
 - The form and scale of the development, and the cumulative effects that would arise when it was experienced in conjunction with the existing prison.

- The extent of the effect, with changes being perceived over a wide area.
- The ineffectiveness of the proposed mitigation planting, which would result in the continued visual presence of the prison within the landscape at Year 15.
- The loss of longer-distance views across the valley.
- The negative effects on both the physical and visual separation of Gartree and Market Harborough.

5.15 My own experience of walking the vicinity of the site would certainly corroborate these conclusions. The impact of a development of this scale on an open and gently sloping site would be vast, resulting in a significant protrusion of built form into the open countryside. In support of the expert conclusions of Mr Neesam I entirely concur that there should be at least **significant negative weight** attributed to the landscape harm caused by the appeal proposal.

Sustainability

5.16 The committee report, in its overall balancing exercise, sought to consider the impact of the proposal on the highways network in terms relating solely to paragraph 111 of the NPPF, that is whether it would result in an unacceptable severity of impact. In doing so it only attributed limited harm to the delivery of a significant infrastructure project in the open countryside which would generate a minimum of 1,358 additional trips by motorised vehicle per day – effectively one per minute over 24 hours. In fact, as has already been clarified by Mr Hickie the level of trip generation by the site once service and visitor vehicles are included will be much higher.

5.17 What the officer report failed to consider was accessibility in the round and the wider, albeit less than severe, impact on both the highways network and the Government's drive to limit car-borne journeys. Indeed, specifically it failed to have appropriate regard for, and attribute negative weight to, the outright unsustainable nature of the location and the appellant's own admission that almost every trip to and from the site would be by private car. In this respect the proposal is anathema to paragraph 105 of the NPPF's expectation that "*significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*".

5.18 GA's principal evidence on the unsustainable and inaccessible nature of the appeal site has been prepared by Mr Hickie. In summary his own conclusions are damning, finding that:

- The site suffers from limited accessibility for cyclist and pedestrians and there is no strategic access to public transport systems, contrary to paragraph 105 of the NPPF. This will result in a significant number of long single-user trips by private car from across the 40-mile radius catchment;
- Trip generation has been underestimated in the Appellant's submissions in terms of absolute numbers of staff. Taken together with the lack of access to sustainable transport modes, it is likely that the Appellant has underestimated the scale of private vehicle usage to site;
- There is likely to be insufficient car park provision resultant of the significant reliance on the private

car, contrary to **Policy LNP16**;

- Welland Avenue is likely to be too narrow to support the passage of HGVs that will be required to construct and service the site, contrary to **Policy LNP16**;
- Accessibility to the site from nearby villages by vehicle has not been accurately represented or considered. The Appellant has provided no informed evidence to demonstrate that there will be no harm caused to the amenity of surrounding villages (including Gumley, Foxton and Great Bowden) by the routing of traffic contrary to **Policy LNP19**;
- The Appellant's attempt to reduce movement of traffic through Gartree village are unlikely to fulfil the goal of mitigating the adverse impact of living conditions of nearby residents caused by traffic movement, contrary to **Policy LNP19**; and
- The plan would exacerbate issues with the walking route to the Foxton Primary School, causing harm contrary to **Policy LNP16**.

5.19 Table 5-2 of the Appellant's own Transport Assessment submitted at application stage openly concedes that 93.6% of employees at the prison will require the use of private motor vehicles or taxis to access their place of work by day, rising to 100% for those on nightshift. Then, 100% of trips made by visitors would likely be by private motor vehicle. Then, considering that staff will be expected to be drawn from at least a 40-mile radius the Transport Assessment entirely fails to recognise the sheer number of extra hours private cars will be on the road because of this proposal. These levels of accessibility are absurd when the aspirations of the NPPF in respect of promoting sustainable transport and cutting carbon emissions are considered.

5.20 The sustainability and accessibility case for the appeal proposal is non-existent. The fact that close on 100% of all staff and visitors will need to use private car to access the site should have served as a red flag in terms of its promotion as a site for a new prison at the first site sift. I can only conclude that this critically poor level of accessibility should carry **very significant negative weight** in the planning balance.

Prison need at this location

5.21 Gartree Action does not seek to dispute that there is a need for new prison spaces nationwide, albeit as is made clear in the evidence of Ms Rogers the scale of need appears to have been significantly overestimated, based as it was on projections from the MoJ which significantly overstated that requirement for the first year of the project period July 2021 to July 2022. Ms Rogers' extrapolation from the actual figures in the first year suggest that the requirement for prison accommodation could be approximately 4,378 spaces lower than the MoJ's initial estimates. This is equivalent to almost two and half prisons the size of that proposed at Gartree. Accordingly, the urgency to deliver new prison places appears to have receded and the overall need for the expansion of the prison estate proposed by the Government is strongly brought into question.

- 5.22 The committee report, at paragraph 7.5, concluded that *"the proposed Category B training prison facility would provide a substantial quantum of modern accommodation for prisoners which would contribute towards meeting the acknowledged demand at a national level, in compliance with paragraphs 96 and 97 of the NPPF, and the proposal would therefore have a major beneficial effect in this regard"*. In simply accepting the MoJ's own initial projections, which have now been challenged robustly by both the Council and Gartree Action in the evidence before this Inquiry, the Council's planning judgement would have been skewed.
- 5.23 The MoJ's case at application stage also relied heavily on a conclusion that suggested that no more appropriate locations could be identified for the new prison following its own sequential assessment process and that the appeal site represents the most appropriate opportunity to deliver the new facility. However, as has been identified in the evidence of Ms Rogers the site selection process was heavily weighted towards identifying land already in the ownership of the MoJ. Indeed, the appellant's initial planning statement confirms at paragraph 7.35 that *"land in MoJ ownership was considered as priority sites given the potential for quicker delivery to meet challenging delivery programme and avoid additional costs and time delays associated with the purchase of land"*. As surmised in my own objection letter prepared on behalf of Gartree Action towards the appeal application, dated 22nd March 2022, the following observation remains relevant:

"Indeed, when referencing the comparable sequential test to be applied to retail uses described by the PPG land ownership is not a key consideration – instead, it is the availability of the land that should be assessed. This is designed to ensure that operators do not buy the intended development site first and then plan second as an apparent fait accomplis. There should be no special dispensation for public bodies. Indeed, the MoJ, as a ministry of government, is empowered more so than any private sector operator through access to compulsory purchase. Ownership of land should not be determining criteria. Instead, connectivity, local character, supporting infrastructure and access to a sufficient local skill base must represent far more compelling factors in identify sites for such significant infrastructure uses."

- 5.24 In accepting that there is an inevitable need to deliver a prison at the appeal site, a conclusion that is now subject of challenge, the committee report concluded that significant weight should be attributed in favour of meeting a national prison need at Gartree.
- 5.25 It is clear to me, based on the need and locational evidence before the Inspector, that this benefit was in fact vastly overstated. Whilst I accept that there is a requirement to maintain investment and capacity in the prison estate there are better locations to do so with potentially smaller or fewer facilities. On this basis I can only attribute at best **limited positive weight** to the proposals at this time.

Socio-economic impact

- 5.26 The socio-economic impact of the appeal proposal has been assessed in detail in the evidence of Mrs

Cook on behalf of Gartree Action. This evidence picks up on the key themes raised at 6.10.1 to 6.10.27 of the committee report and corrects any inaccuracies or discrepancies included in the analysis. The key issue with the Council's original weighting placed against any socio-economic benefit in the committee report is its acceptance verbatim of the supporting information put forward by the appellant at application stage. Another issue is that the socio-economic argument focuses heavily on the economic rather than social angle – jobs, investment, and spend as opposed to the social impact of the proposal. Both the Inspector and I now benefit from a clear and robust assessment of this information – this overlaps with Ms Rogers' conclusions in respect of national and local need for prison places and the resultant impact of this provision on social outcomes, Mr Hickie's evidence in respect of the experience of families in the rehabilitation process and Mrs Coor's evidence in respect of overall economic impact.

5.27 In short, this evidence concludes that:

- The basis for the appellant's own socio-economic case is the now significantly dated 'Economic Impact of a New Prison' report prepared for the MoJ by Peter Brett Associates (PBA) in 2013 (**CD J1**);
- Additionally, the PBA report undertook its modelling largely drawing on the data related to prison facilities in urban locations which would be significantly more accessible, better linked to larger communities, subject to a greater immediate pool of labour, and immediately linked to their local supply chain;
- Specifically, reference to the PBA report leads the appellant to conclude, and the committee report to agree, that 54% of the 780 employees at the prison could be expected to live in the local area. Firstly, local is defined as 'within 40 miles' (so not demonstrably local and certainly not accessible via any means other than private car) and secondly the access to labour captured by this broad estimate will be based on an urban prison, so one which is immediately adjacent to a substantial labour supply;
- Ease of accessibility of prison facilities for the families of prisoners has a direct correlation with the effectiveness of their rehabilitation and mental health – the less accessible, the less likely families are to visit, and the more the prisoner's mental state may suffer; and
- On the basis that the need for new prison spaces nationwide appears to have been overestimated, a point which was not identified by the committee report, then the benefit to be attributed to the rehabilitation of offenders should be reduced proportionately.

5.28 There will of course be a socio-economic benefit of a scheme which seeks to deliver approximately 780 new jobs and investment in the local and national supply chain. However, bearing in mind that the unemployment rate in the UK is currently at 4.53% compared to the position at the time of the publication of the PBA report of 7.52% (so significantly lower today than in 2013 and indeed lower than all but 4 other years since 1991)¹ any benefit in terms of job creation must be weighed comparatively. The analysis of Mrs Cook, which I have interpreted and summarised above, then must also be considered prior to

¹ <https://www.macrotrends.net/countries/GBR/united-kingdom/unemployment-rate>

arriving at the overall level of benefit to be attributed to the socio-economic benefits of the scheme.

- 5.29 The committee report concluded that significant positive weight should be afforded to socio-economic impact – however, this was in the absence of the critical analysis of the related evidence and statistics on both a social and economic basis that has now taken place in advance of the Inquiry. Accordingly, based on the assessment of my client my own conclusion is that only **moderate positive weight** should be attributed to the socio-economic benefits of the appeal proposal.

Ecology

- 5.30 The committee report included a lengthy assessment of the ecological impact of the appeal proposals on biodiversity. It identifies that there is an expectation for new development to accord with **Policy GI5** of the Harborough Local Plan which requires (most relevant to the appeal application) proposals to avoid adverse impact on the conservation of priority species and to contribute towards protecting and improving biodiversity where relevant. It does not set a target for biodiversity net gain and simply expects development proposals to secure preservation and improvement wherever possible. In which case there is no benchmark target for net gain which should be met or exceeded – there is simply a need for no harm and for proposals to ensure policy compliance.
- 5.31 As demonstrated by Figure 37 of the committee report there is harm to on-site habitats in the first instance – there will be a net loss of commuting and foraging habitat for bats, foraging habitat for Badger, foraging and nesting habitat for birds and a net loss of breeding and terrestrial habitats for Great Crested Newt. None of this land-intensive foraging, nesting, or breeding habitat will be replaced like-for-like either on or off site. Instead, the proposed compensatory measures largely comprise commuting for Great Crested Newts and artificial roosts for the other impacted species. Some of the best quality foraging and breeding habitat is lost.
- 5.32 In any event, whilst it can be demonstrated, in applying the Natural England Metric 3.0, that a net gain in biodiversity can be secured this is a result of enhancing a range of habitats on site that would only benefit species that currently are not even identified in the appellant's ecology surveys as being present in the immediate vicinity. These include Barn Owl, amphibians, and invertebrates.
- 5.33 In conclusion some harm will be caused to habitats and some mitigation will be introduced to compensate this, albeit not like for like. **Policy GI5** expects no harm and ideally requires net gain – there is some residual harm caused by the proposal, but the overall biodiversity net gain is considered to compensate for this. In general, it is a policy compliant scheme and nothing more. In which case it is not clear to me how the Council arrived at the initial weighting of being of significant benefit – it is my conclusion that any benefit attributed to ecology should be of **limited positive weight** at most.

Compliance with Policy BE1.1 and Policy GI1

- 5.34 It is not clear to me at all why these are listed as benefits in the committee report. Essentially paragraph 7.4 confirms that the proposal is essentially conforms and does not conflict with either policy. This is the minimum that should be expected of any proposal, less it results in additional harm in respect of its conflict with the development plan. Policy compliance is an expectation, not a benefit. This should be afforded **no weight** either for or against the appeal proposal.

Heritage impact

- 5.35 Paragraph 7.6 of the committee report took the unusual step of affording beneficial weight to heritage impact on the following basis:

"The proposed development would not harm any Conservation Areas or Listed Buildings. The proposed development would result in the breaking up of part of a former runway which is a features associated with the former RAF Market Harborough, which could be considered to be a non-designated heritage asset due to its contribution to the defence of the Country. Furthermore the proposal would result in the loss of some potentially iron-age archaeological remains, again, considered to be non-designated heritage assets. The harm identified is of limited importance and weight in terms of NPPF Paragraph 203. Whilst the recording of these non designated heritage assets is considered to be a mitigation against the impact of the proposal, moderate weight should be afforded in favour of these public benefits of the development."

- 5.36 To summarise – there will be harm to a non-designated heritage asset and the loss of archaeological remains. In mitigation the archaeological remains to be lost will be recorded, as per usual procedure and in a manner to be secured by way of condition. In all it must only be concluded that there will be some residual harm in that an above ground asset will be lost in totality with mitigation only offered for the lost below ground deposits. If anything, this should be introduced to the planning balance as having a neutral contribution at best (harm which is mitigated), at worst **limited negative weight** due to the residual harm caused to the airfield runway. My own conclusion, based on the analysis in the committee report, supports the latter.

Flood risk and drainage

- 5.37 It is not clear from the committee report how flood risk and drainage matters were considered in the overall planning balance. Paragraph 7.10 states that there will be impact in respect of drainage which can be mitigated by the proposed drainage scheme. It does not identify either harm or benefit. In which case I cannot see how weight could be attributed either way. Drainage matters should be afforded **no weight** in the planning balance.

Air quality

- 5.38 It is not clear from the committee report whether the overall planning balance afforded negative or positive weight to air quality matters. Specifically, paragraph 7.11 states:

"Concerns have been raised regarding the impact of the development on Air Quality on the area. However, due to advances in technology and stricter legislation with regard to vehicle emissions, notwithstanding concerns regarding the location of the proposed access route in proximity to a Primary School, it is considered that the impact of the development will be negligible at worst, and as such, limited weight should be given to the potential impacts of the proposal on Air Quality."

- 5.39 Due to the conclusion that there may be negligible impact it must only be concluded that this was intended as an attribution of negative weight. I concur. On this basis **limited negative weight** should be attributed to air quality matters.

Amenity

- 5.40 Paragraph 7.12 of the committee report confirms that **no weight** should be attributable to the impact of the proposal on residential amenity. For all the reasons stated in the committee report I agree with this position.

Agricultural land

- 5.41 Similarly, paragraph 7.14 of the committee report confirms that **no weight** should be attributable to the impact of the proposal on agricultural land. For all the reasons stated in the committee report I agree with this position.

Low carbon and renewables

- 5.42 Paragraph 7.16 of the committee report sought to attribute moderate positive weight to the low carbon nature of the buildings and the micro-generation of renewable energy on site. My reading of this matter, however, is that such measures are required as part of major development to simply accord with Policy CC1 of the Local Plan. In which case policy compliance cannot be reasonably argued as offering a benefit (usually attributed to notable policy exceedance). On this basis I conclude that such matters should be afforded **no weight** in the planning balance.

Overall Planning Balance

- 5.43 Based upon my assessment set out above my initial assertions should be clear. There are several factors that were clearly understated or overstated in the original committee report that should have led to a recommendation for refusal in the first instance. However, now with the benefit of the additional expert evidence before the Inquiry the conclusion is clear, that the harm attributable to the proposal will demonstrably and indeed substantially outweigh any alleged benefit. My overall balance is set out in **Table GA1** overleaf:

Table GA1: The Planning Balance

Benefits		Harm	
Socio-Economic	Moderate	Development Plan Conflict	Very Significant
Need (Prison Capacity)	Limited	Sustainability	Very Significant
Biodiversity Net Gain	Limited	Landscape and Character Impact	Significant
		Heritage and Archaeology	Limited
		Air Quality	Limited

6.0 SUMMARY AND CONCLUSIONS

- 6.1 My statement has clearly demonstrated that there is a compelling case to dismiss the appeal and that it should not benefit from any of the provisions in favour of sustainable development presented by paragraphs 11 or 12 of the NPPF.
- 6.2 It is clear from the evidence before me and from my own analysis of both the circumstances surrounding the Council's initial recommendation of approval to its planning committee and the various material considerations that must be weighed in the overall planning balance that it represents a scheme which should never have been supported by officers in the first instance. It represents a significant and entirely unsustainable use in an inaccessible and remote open countryside location and is the exact opposite of the type of well-connected sustainable development sought by the NPPF.
- 6.3 In both the instances of the Council's report to committee and on reference to the appellant's own case this represents an appeal proposal that has consistently sought to rely on an assertion of overriding need for new prison spaces to overcome a myriad of harms. These harms start with the proposal's fundamental conflict with the development plan and then extend to its impact on the countryside, on the character of the area's settlements, the substantial level of car-borne journeys it would generate and in respect of other environmental matters such as heritage and air quality.
- 6.4 The benefits are then minimised when it is considered that this is simply the wrong location for a new prison of this strategic scale. It can barely be accessed, it is not known how it will be staffed, it is not even certain that this extent of accommodation is necessary right now and it certainly is not proven that this is the place where such a significantly facility should be delivered.
- 6.5 In the end, and following proper analysis of the proposal by the people who know their area best – that is the residents of the surrounding villages, a clear case has been put forward by my client that this proposal will bring substantial harm to the area. Even when the strategic benefits of the proposal are considered in respect of the national need for new prison spaces the harms identified would demonstrably tip the planning balance against the proposal.
- 6.6 Based on all the above my client, Gartree Action, respectfully request that the Inspector recommends dismissal of this appeal.

APPENDIX GA1
APPROVED HARBOROUGH SDA MASTERPLAN
(Nearest part of Appeal Site shown in red)

DESIGN

SDA MASTERPLAN

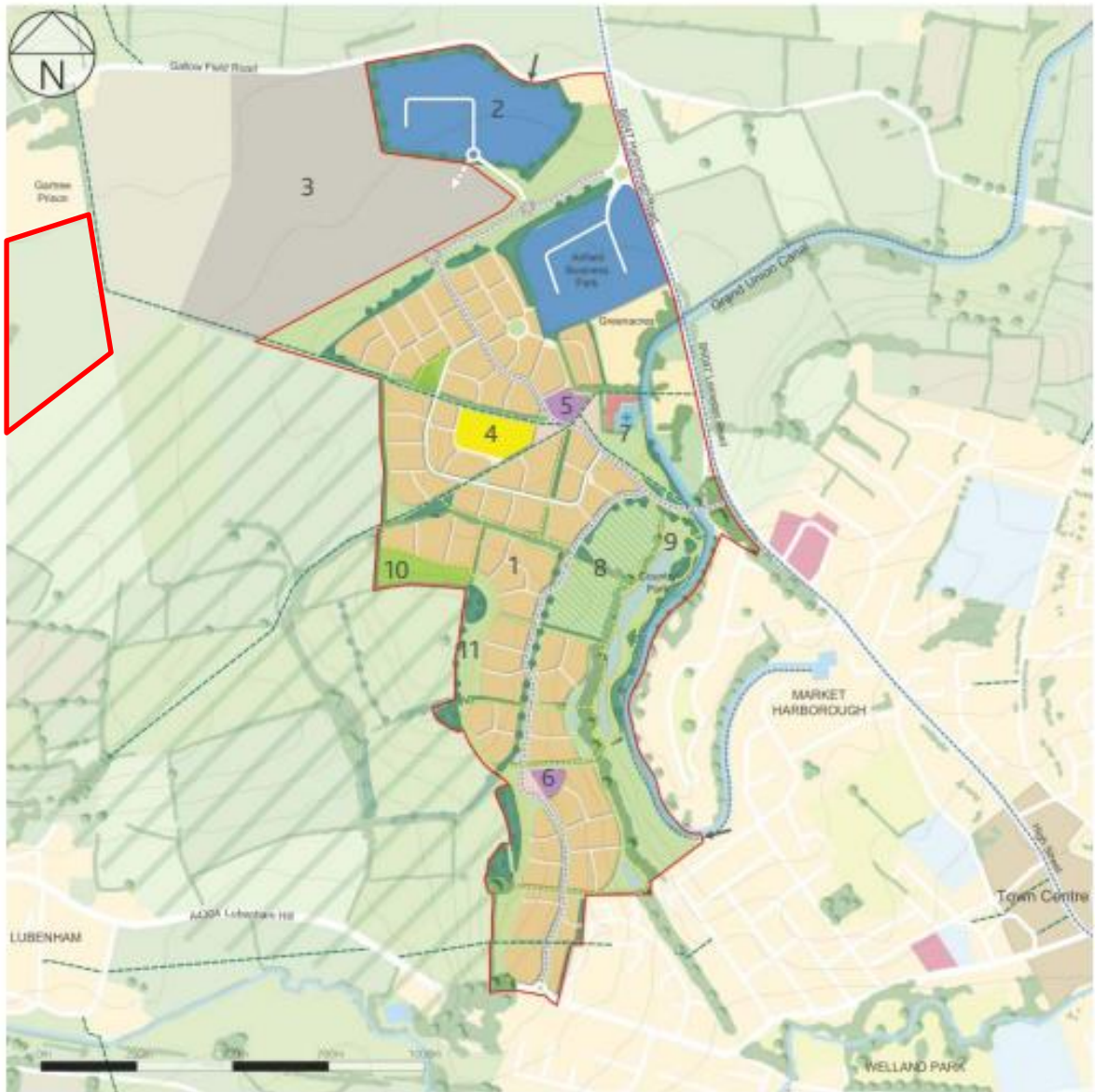


Figure 10: SDA Master Plan