

RE: LAND ADJACENT TO HMP GARTREE, WELLAND AVENUE, MARKET HARBOROUGH

OPENING STATEMENT BY GARTREE ACTION (RULE 6 PARTY)

(I) Introduction

1. At the outset, Gartree Action (referred to as 'GA' for present purposes) seeks to reassure the inspector that it acknowledges there is a lot of ground to cover in this inquiry. Of course, GA's involvement is important in reflecting the nature and extent of local opposition to the proposal. However, GA is also conscious that it must seek to avoid rehearsing points already made by the Council.
2. That said, this is a s.78 appeal against Harborough District Council's decision of 7 April 2022 to refuse an application by the Ministry of Justice for outline planning permission to develop land to the south of HMP Gartree, Welland Avenue, Market Harborough.
3. In short, the MoJ wants to build a mega-prison adjacent to an existing prison, just outside the small rural Gartree estate, in open countryside. The new proposals dwarf even the existing prison: the 1715-inmate capacity envisaged in the appeal scheme far outstrips the 574 prisoners residing at HMP Gartree in July 2022.¹
4. The appeal proposal will not simply reflect the existing character of Gartree, accounting for the existing prison facility. Instead, it will fundamentally alter the character of a large part of the district's rural area and the day-to-day experience of the communities which surround it. This outcome was at the heart of GA's objection to the appeal application and one which is now correctly recognised in the eventual reason for refusal. In short, the Leicestershire countryside is no place for an industrial-scale infrastructure project of this size and effecting this level of impact.

¹ Core Document J8, cell E46.

5. The decision to refuse permission was taken by members of the Council's Planning Committee, contrary to the committee report recommendation. GA's detailed case is that 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. GA's overall case is that to place a prison of this magnitude amongst several quiet villages linked together by a rural road network is simply not good or sustainable planning.

(II) Recovery of the appeal

6. The parties were informed by a letter of 2 September 2022 that this appeal had been recovered by the Secretary of State on the basis that the appeal involves proposals for development of major importance having more than local significance, and proposals against which another Government Department has raised major objections or has a major interest.
7. The Ministry of Justice *does* have a major interest in the outcome of this appeal. It is perfectly plain from the decision to recover the appeal that political considerations are at play here. The rationale for development itself, that more prisons are urgently needed to fill a reported overdemand (in part fuelled by an expanding target to recruit 10,000, then 20,000 police officers) was a core tenet behind the Conservative Party manifesto in 2019 and subsequent policy.
8. However, that is not the only political matter setting the context for this inquiry. In Liz Truss's recent debut answering at Prime Minister's Questions, she expressed concern that "... *there is not enough power in local hands at the moment. It is too easy for local councils to be overruled*".² The strength of local opposition to this vast proposal in a rural part of the district was striking at application stage. Local concern was also

² Hansard, Vol 719, 7 Sept 2022, Col. 234.

substantiated in planning terms at committee stage, where the Council refused permission. At appeal, there remains staunch local opposition to these plans.

(III) The appeal and the development plan

9. Despite the national and local political context, this appeal is concerned with planning policy and judgement. In making your decision, GA will invite you to do so on the *planning merits* of the case.
10. In terms of the issues at appeal, GA broadly stands behind the Council: in opposing the appeal; and in particular, in challenging the need for further prison places in this location, and in challenging the Appellant's position that the site is accessible or locationally sustainable. As raised at the CMC, GA is adopting the Council's position on the landscape issue.
11. This being a planning inquiry, it is of course against local and national planning policy that you must consider your recommendation.
12. That can only start with the common ground that the proposal is in conflict with policy GD3 of the Harborough Local Plan ('development in the countryside'); unsurprisingly, there are no provisions in either the Local Plan or the Lubenham Neighbourhood Plan that provides for the delivery of an entirely new 82,555sqm prison complex on open land in a rural area.
13. This point is clear from consideration of policies SS1 (the spatial strategy) and GD1 (which reiterates the sustainability approach set out in §11 of the NPPF). GA shares the Council's view that the proposal conflicts with policy GD1 ('achieving sustainable development'). Likewise, there is no provision for this scale or type of development in policies LNP16 or LNP19 of the Neighbourhood Plan.
14. GA shares the Council's view that the proposal is plainly at odds with policy LNP01 of the Neighbourhood Plan, and indeed policy GD6 of the Local Plan (which seek to

protect the distinctive character of separate settlements by preserving areas of separation). As raised in GA's initial objection, the proposal would at least double the built extent of the Gartree estate, resulting in a radical change to the character of the settlement and drawing the extent of built form significantly towards Lubenham to the south.

15. GA adopts the Council's position and conclusions on landscape and character, namely that the resultant scheme does not assimilate with the wider area but causes significant harm to the countryside, in conflict with policy GD3.
16. Even within small settlements such as the Gartree estate (let alone outside its built extent), the development plan scarcely contemplates development *at all*, let alone the prospect of significant development of a substantial prison complex.
17. The National Planning Policy Framework is an important material planning consideration to the appeal proposal. The Framework is underpinned by a presumption in favour of sustainable development (see §11) and provides a corollary (at §12) for situations where an application conflicts with the development plan.
18. GA's case is that the proposals conflict with the up-to-date development plan, read as a whole, so planning permission should not be granted. The Appellant must establish that material considerations in this particular case indicate that the plan should not be followed. GA's consistent view has been that there is no such indication here.

(IV) The issues at appeal

19. The MoJ's case includes that there are benefits associated with the site which constitute material considerations in favour of permission being granted, even if the proposal is found to be contrary to the development plan. The majority of the benefits are 'generic'; they would apply to any proposals for such a substantial infrastructure project, irrespective of location. However, GA does not seek to trivialise these.

20. The MoJ's main contention relates to the need for new prison places in this location. You will be asked to determine the extent of the need for prison places – and in particular the urgency of such need – and weigh it up in the planning balance.
21. GA will endeavour not to cover the same ground as the Council but shares the view that any need for prison places does not grant the MoJ *carte blanche* to assert a need for a prison in this rural and relatively isolated location. In addition, GA's evidence (in particular, that of Adele Rogers) will seek to show that all indications suggest that the extent and urgency of the need for new prison places has in reality been drastically overstated. The MoJ's site search was neither robust nor convincing in justifying why the rural and relatively inaccessible appeal site is preferable to other potential sites for this national development.
22. If you agree that the MoJ's need case is overstated, and that there is no, or no urgent, need for a Category B training prison in the area proposed, the case for permitting a major prison complex to be built in open countryside starts to unravel.
23. Mr Hickie of GA has lived in neighbouring Foxton for almost two decades. He explains that the site location is fundamentally unsustainable and inaccessible. Even on the Appellant's evidence, the vast majority of trips to and from the site will be by private car. Mr Hickie contends that even this is optimistic; in reality, virtually all journeys to and from the site will necessitate the use of private car. This scenario is anathema to the aspirations of the NPPF for promoting sustainable transport and should have served as a red flag at application stage. Mr Hickie also raises concerns about access to and from the site via the unadopted Welland Avenue, and the potential impact of the proposal on nearby Foxton Primary School.
24. Ms Cook has lived in Lubenham for over 50 years and been a parish councillor for around half that time. She has sought to scrutinise the social and economic benefits put forward by the MoJ at application stage. She highlights how the socio-economic impacts of a new prison are highly variable, and raises concerns about the central data informing the socio-economic assessment presented at application stage. She also

considers that the local context is vital in assessing the importance of particularly the economic benefits set out by the MoJ; she notes that the fundamentals of the Harborough district's economy are strong. She also observes that longstanding recruitment and retention issues in the prison estate, both at the existing HMP Gartree and more widely, should weigh on the extent of the asserted benefits.

25. It is clear from the careful professional consideration given to all these factors by Mr Armstrong (GA's planning witness) – and essentially also by Mr Weekes for the Council - that whilst there are undoubtedly benefits arising from the development, the overall conclusion should be reached that the proposal is contrary to the development plan as a whole and that material considerations do not indicate a departure from that plan is appropriate here.

(V) Conclusion

26. For these reasons, at the end of this inquiry, GA will invite you to agree and recommend that the Secretary of State dismisses this appeal.

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03 October 2022.