

# SUPPORTING STATEMENT

**Application for a Lawful Development  
Certificate for Rapid deployment Cells at  
HMP Holme House**

On behalf of Ministry of Justice

April 2024

## CONTENTS

1.	Introduction	3
2.	Site and Surroundings	4
3.	Permitted Development Rights	5
4.	Nutrient Neutrality	7
5.	Permitted Development Rights Assessment	8
	<b>Appendix 1 – MoJ Courtesy Letter HMP Holme House</b>	<b>11</b>
	<b>Appendix 2 - Schedule 2, Part 7 Class M of the GPDO (2015)</b>	<b>13</b>
	<b>Appendix 3 - Schedule 2, Part 7 Class MA of the GPDO (2015)</b>	<b>15</b>
	<b>Appendix 4 - Schedule 2, Part 19 Class A of the GPDO (2015)</b>	<b>16</b>
	<b>Appendix 5 - Schedule 2, Part 19 Class C of the GPDO (2015)</b>	<b>17</b>

## Report Disclaimer

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## 1. Introduction

- 1.1 Cushman & Wakefield (C&W) has been instructed by the Ministry of Justice (MoJ) to prepare and submit a Lawful Development Certificate application for additional floorspace at HMP Holme House under Permitted Development Rights contained in the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO).
- 1.2 Section 192(b) of the Town and Country Planning Act 1990 allows the submission of a Lawful Development Certificate to confirm the proposed development constitutes permitted development, for which planning permission is not required.
- 1.3 Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of a Lawful Development Certificate application and how it must be submitted. The application must describe precisely what is being applied for (not simply the use class) and the land to which the application relates.
- 1.4 Government guidance and advice on Lawful Development Certificates are provided in the National Planning Practice Guidance (ID17c) noting that a Local Authority on receipt of a Certificate of Lawfulness needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in such applications.
- 1.5 This application and the Supporting Statement have been produced to provide Stockton-on-Tees Borough Council with a suitable level of information to properly assess and determine that the proposed development constitutes permitted development and therefore has deemed consent. Accordingly, this Supporting Statement is structured as follows:
  - Site Description – Section 2
  - Proposed Development – Section 3
  - Nutrient Neutrality – Section 4
  - Permitted Development Assessment – Section 5
  - Conclusion – Section 6
- 1.6 The following plans and information are also submitted in support of the application:
  - Application Forms
  - Site Location Plan
  - Existing Site Plan
  - Proposed Site Plan
  - Proposed Floor Plans
  - Proposed Elevations
  - Proposed External Works and Fencing Plan
  - Proposed Sub Station Plans
  - Habitat Regulation Assessment
  - Nutrient Neutrality Assessment
  - Letter from MOJ confirming their interest in the site and authorisation to submit the application

## **2. Site and Surroundings**

### **Site Location and Description**

- 2.1 The site is situated within the grounds of HMP Holme House in Stockton-on-Tees. The site is located to the east of Stockton-on-Tees and approximately 3.65km from Middlesbrough.
- 2.2 The prison itself is a Category C Prison for men and the parcel of land that is the subject of this application is identified on the accompanying Site Location Plan.
- 2.3 The application site is 0.2 hectares in size and is within the main prison complex of HMP Holme House. The site presently includes a small ancillary office building, which is due to be demolished and is subject to a separate prior approval application.
- 2.4 A letter was submitted to the Development Management Department at Stockton-on-Tees Borough Council by the Head of Programme Delivery at the MoJ, on the 11<sup>th</sup> of April 2024 to inform the Local Planning Authority of the applicant's intentions in utilising the specific permitted development rights available under Part 7, Class M of the GPDO (as amended) at HMP Holme House (appendix 2).

### **Rapid Deployment Cells**

- 2.5 The total prison population of England and Wales may rise to over 100,000 by the end of November 2025 in a high demand scenario. The projected rise in the prison population is primarily due to an increase in receptions of determinate sentenced offenders. This is because courts are assumed to dispose of more cases than they receive in order to clear the additional trial backlog that arose during COVID-19 restrictions and the Criminal Bar Association strike action.
- 2.6 The MoJ and its executive agency, HMPPS, are embarking on the most ambitious programme of prison expansion in over a century, delivering 20,000 additional prison places through a portfolio of programmes and projects representing an investment of nearly £4 billion by the end of this Spending Review period. These places are being delivered through the construction of new prisons, as well as the expansion and refurbishment of the existing estate and the use of modular cells ('Rapid Deployment Cells' or 'RDC'), such as those proposed at HMP Holme House.
- 2.7 Rapid Deployment Cells are designed to meet short-term prison population pressures while permanent and long-term accommodation is being built. The units offer a flexible capacity solution that can be deployed at pace across the prison estate.
- 2.8 The units will be modern, decent, and offer the prison a good option to manage their progressive regimes (independent living for risk assessed prisoners).

### 3. Permitted Development Rights

#### Introduction

- 3.1 Relevant permitted development rights are contained in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). The full text is contained across Appendices 2, 3, 4 and 5.

#### Part 7 Class M

- 3.2 Part 7 Class M was updated in April 2021 to include prison estates (alongside education providers and hospitals) and increase the amount of new floorspace permitted. In the case of prison buildings, Part M applies to buildings where the predominant use of the existing buildings on the premises is for the confinement of prisoners in closed conditions and where buildings are located on a site with a closed perimeter only, and therefore not the open prison estate.

- 3.3 In order for permitted development rights to be exercised it is necessary that the following conditions must be met:

- 1) The footprint of the proposed extension must be no bigger than 25% of the existing footprint on or after 21st April 2021;
- 2) The proposal must be more than 5 metres from a boundary of the curtilage of the boundary of the premises;
- 3) The height should not exceed 6 metres (from ground floor level) or 5m if proposals are closer than 10m to the boundary;
- 4) The development should not be on any land used as a playing field in the 5 years before development commenced *as a* and remaining in this use could no longer be so used;
- 5) The development should not be proposed within the curtilage of a listed building.
- 6) Where 2 or more original buildings are within the same curtilage and are used for the same institution, they are to be treated as a single original building in making any measurement.

#### Part 7 Class MA

- 3.4 Part 7 Class MA allows for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure in connection with a prison, provided it does not exceed 5.5m in height.

#### Part 19 Class A

- 3.5 Part 19 Class A allows for the construction of small ancillary buildings on Crown land required for operational purposes, provided they do not exceed 4 metres in height of 200 cubic metres in capacity.

#### Part 19 Class C

- 3.6 Part 19 Class C allows for developments on operational Crown Land for the following purposes:

- a) the installation of additional or replacement plant or machinery;
- b) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus; or
- c) the provision, rearrangement or replacement of a private way, private railway, siding or conveyor.

3.7 In order for permitted development rights to be exercised it is necessary that the following conditions must be met:

- 1) The development must not materially affect the appearance of the premises
- 2) Any plant or machinery must not exceed 15m above ground level or the height of anything building being replaced, whichever is greater.

## 4. Nutrient Neutrality

- 4.1 On the 16<sup>th</sup> of March 2022 Natural England advised all Local Authorities within the catchment of the River Tees that the Teesmouth & Cleveland Coast Special Protection Area/Ramsar (SPA) is now considered to be in an unfavourable condition. HMP Holme House is within the River Tees catchment area.
- 4.2 Developments providing new overnight accommodation must provide suitable mitigation to ensure that nitrate levels remain neutral (i.e., to achieve nitrate neutrality). This includes the proposed prison expansion at HMP Holme House.
- 4.3 Article 3(1) of the GPDO sets out that permitted development rights contained in the Order are granted subject to regulations 73 to 76 of the Conservation of Habitats and Regulations 2010. The requirement to demonstrate nutrient neutrality is such that it triggers the need for approval under Regulation 77 of the Conservation of Habitats and Species Regulations.
- 4.4 To allow the LPA to undertake this assessment and subsequently determine if the proposed development is permitted development, a Habitat Regulation Assessment (HRA) is submitted with this application.
- 4.5 The HRA, and accompanying nutrient neutrality assessment, set out the proposed nutrient neutrality mitigation.
- 4.6 Following a detailed appraisal of the options to provide the required mitigation, it was decided to secure this through a combination of a temporary credits purchase from Natural England. The temporary credits were obtained in September 2023 for a 36-month period, alongside which a permanent solution in the form of a wastewater treatment plant is proposed (subject of a separate full planning application recently submitted).
- 4.7 A nutrient neutrality assessment is submitted with this application to demonstrate how the proposed WWTP will provide sufficient mitigation to account for the proposed expansions at HMP Holme House and HMP Kirklevington Grange, as well as additional headroom to allow for potential future development by the applicant at sites in the River Tees catchment.
- 4.8 The submitted Stage 1 Habitat Regulation Assessment Screening and Stage 2 Appropriate Assessment report (prepared by Plowman Craven) concludes that the above mitigation strategy is sufficient to ensure that there is no significant residual effect upon any statutory designated site/ qualifying feature, and that the requirements of the Habitats Regulations have been fully considered.

## 5. Permitted Development Rights Assessment

5.1 The following text considers the proposed development against the relevant parts of the GPDO.

### Modular Accommodation

5.2 The proposed development for the modular unit accommodation has been considered against the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) Schedule 2, Part 7, Class M.

5.3 This statement has previously confirmed that the site is fully within MoJ ownership and is classified as Crown Land, which falls within the operational estate of HMP Holme House.

5.4 HMP Holme House is part of the closed estate. The accompanying proposed site plan, drawing ref.523154-5243-HL-01-XX-DR-A-1600, shows the proposed layout of the modular units within the site.

5.5 The installation comprises 20 cells and 8 ancillary units, with associated infrastructure including office space, kitchen and seating areas.

5.6 Additional units will help to support inmates physical and mental wellbeing through short-term prison population pressures or maintenance and refurbishment projects.

5.7 The footprint of HMP Holme House, as it stood on 21<sup>st</sup> April 2021 is 29,574.03m<sup>2</sup>. The floorspace limit available under the permitted development rights is therefore 7,393.51m<sup>2</sup>.

5.8 The footprint of the proposed modular units is 458m<sup>2</sup>, which is comfortably within the permitted development limits.

5.9 The proposed indicative modular unit height is no taller than 2.8m and it is located at least c. 27m from the prison site boundary.

5.10 The application is not within the curtilage of a listed building.

5.11 The application site does not comprise land that has been used as a playing field in the last 5 years.

5.12 As the development will provide new overnight accommodation within the Tees Catchment Area for Nutrient Neutrality, the application is supported by a Habitat Regulation Assessment and Nutrient Neutrality Assessment. As described in section 4, it is considered that the requirements of the Habitats Regulations have been fully considered and the proposed development, subject to the mitigation proposed, will not result in any significant residual effect upon any statutory designated site/ qualifying feature.

### Fencing

5.13 The proposed fencing has been considered against the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) Schedule 2, Part 7, Class MA.

5.14 The submitted fence elevation drawing shows that the height of the fencing will not exceed 5.5m.



## **Substation**

- 5.15 The proposed substation has been considered against the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) Schedule 2, Part 19, Classes A and C.
- 5.16 The plant room building is considered to clearly comprise a small ancillary building required for operational purposes in accordance with Part 19, Class A.
- 5.17 The submitted drawing ref. 523154-5243-HL-02-00-DR-A-2005 shows and states in the notes that the plant room building will not exceed 4m in height nor will it exceed 200 cubic metres in capacity.
- 5.18 The plant equipment itself will not exceed 15m in height and given its siting within the existing prison wall and within a plant room permitted under Part 19, Class A, it is not considered to materially affect the external appearance of the premises.
- 5.19 In summary, the proposed development is considered compliant with the Permitted Development Requirements.

## 6. Conclusion

- 6.1 This statement and the accompanying documentation set out the proposed location and layout of the proposed development and explain how the proposed development clearly constitutes permitted development under various parts of Schedule 2 of the GPDO (2015), including Part 7, Class M; Part 7, Class MA; Part 19, Class A; and Part 19, Class C.
- 6.2 The proposed modular units will provide additional accommodation for the existing prison population. A similar scheme implemented to tackle Covid 19 cases has been successful and resulted in improved inmate wellbeing.
- 6.3 Through a combination of the proposed WWTW and temporary credits from Natural England to cover the intervening period, the proposed development will ensure nutrient neutrality is achieved.
- 6.4 We respectfully request that a Lawful Development Certificate is issued as soon as possible to ensure this development can go ahead in line with the necessary project priorities and timescales.

## Appendix 1 – MoJ Courtesy Letter HMP Holme House



**Ministry of Justice**  
Property Directorate  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU  
[www.justice.gov.uk](http://www.justice.gov.uk)

Planning,  
Stockton-on-Tees Borough Council,  
Municipal Buildings,  
Church Road,  
Stockton-on-Tees,  
TS18 1LD

11<sup>th</sup> April 2024

Dear Sir/Madam,

**Part 7, Class M of Schedule 2 of The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 – extensions etc for schools, colleges, universities and hospitals – HMP Holme House, Holme House Rd, Stockton-on-Tees, TS18 2QU ('the Site')**

As you will be aware, Department for Levelling Up, Housing and Communities (formerly the Ministry for Housing, Communities and Local Government) made an Order in 2021, cited as the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021; the Order was laid before Parliament on 31<sup>st</sup> March 2021 and came into force on 21<sup>st</sup> April 2021.

The provisions encompassed within the Order are in aid of supporting a number of Government objectives, including supporting public service infrastructure. As such, amendments have been made [amongst others] to existing permitted development rights to allow schools, colleges and universities, hospitals and prisons to expand and adapt their buildings as they respond to changing demands and ways of working, without the need to seek planning permission.

Although the Ministry of Justice is not required to seek prior approval for development under Class M, we write to you as the respective Local Planning Authority to inform you of our intentions in utilising the amended permitted development rights under Part 7, Class M paragraph (9) of the Order at HMP Holme House, Stockton-on-Tees.

The amended permitted development rights set out in Part 7, Class M paragraph (9) expands the rights to include prisons. Paragraph 9(4) provides that development is not permitted –

- (a) *If the cumulative footprint of any erection, extension or alteration under Class M on or after 21<sup>st</sup> April 2021 would exceed the greater of –*
- i. 25% of the cumulative footprint of the school, university, prison or hospital buildings as it was on 21<sup>st</sup> April 2021; or*
  - ii. 250 square metres*

The permitted development rights under Class M (9) also restrict the height of the proposed buildings to 5 metres if within 10 metres of a boundary of the curtilage of the premises, or 6 metres in all other cases.

For your information, HMP Holme House is a prison for men over 18 with a cumulative footprint amounting to 29,574 square metres on 21<sup>st</sup> April 2015.

In accordance with the requirements of the Order, the Ministry of Justice intends to erect a single storey (total 3 metres in height) modular building amounting to a 458 square metre footprint at HMP Holme House within the existing perimeter and rely on Part 7, Class M to erect the building.

A plan is enclosed within this letter for your records which identifies the position of the proposed accommodation within HMP Holme House.

We are aware that the site is impacted by nutrient neutrality requirements and will be separately seeking to address this through a Habitat Regulations Assessment if required.

If you have any questions in relation to this matter, please do not hesitate to contact me.

Your faithfully

Ministry of Justice

## Appendix 2 - Schedule 2, Part 7 Class M of the GPDO (2015)

### Schedule 2, Part 7 of the Town and Country Planning (General Permitted Development) Order (2015) (as amended) – Class M – extensions etc for schools, colleges, universities, prisons and hospitals

#### **Permitted development**

*M. The erection, extension or alteration of a school, college, university [F2, prison] or hospital building.*

#### **Development not permitted**

**M.1** *Development is not permitted by Class M—*

- a) *if the cumulative footprint of any erection, extension or alteration under Class M on or after 21st April 2021 would exceed the greater of—*
  - (i) *25% of the cumulative footprint of the school, college, university, prison or hospital buildings as it was on 21st April 2021; or*
  - (ii) *(ii)250 square metres;*
- b) *in the case of a college, university, prison or hospital building, if any part of the development would be within 5 metres of a boundary of the curtilage of the premises;*
- ba) *in the case of a school, where any land adjacent to the site is used for a purpose within Part C of the Schedule to the Use Classes Order (residential purposes), if any part of the proposed development is within 5 metres of the boundary of the curtilage of that residential land;*
- c) *if, as a result of the development, any land used as a playing field at any time in the 5 years before the development commenced and remaining in this use could no longer be so used;*
- d) *if the height of any new building erected would exceed—*
  - (i) *if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or*
  - (ii) *in all other cases, 6 metres;*
- da) *if the height of any rooftop structure would exceed 1.5 metres;*
- e) *if the height of the building as extended or altered would exceed—*
  - (i) *if within 10 metres of a boundary of the curtilage of the premises, the lesser of the height of the building being extended or altered or 5 metres; or*
  - (ii) *in all other cases, the height of the building being extended or altered;*
- f) *if the development would be within the curtilage of a listed building; or*
- g) *unless—*
  - (i) *in the case of school, college or university buildings, the predominant use of the existing buildings on the premises is for the provision of education;*
  - (ii) *in the case of hospital buildings, the predominant use of the existing buildings on the premises is for the provision of any medical or health services*
  - (iii) *in the case of prison buildings—*

*(aa) the predominant use of the existing buildings on the premises is for the confinement of prisoners in closed conditions;*

*(bb) the buildings are located on a site with a closed perimeter; and*

*(cc) the development does not involve the erection, extension or alteration of any building beyond the perimeter as it stood on 21<sup>st</sup> April 2021.*

## **Appendix 3 - Schedule 2, Part 7 Class MA of the GPDO (2015)**

### **Schedule 2, Part 19 of the Town and Country Planning (General Permitted Development) Order (2015) (as amended) – Class MA – Non-domestic extensions, alterations etc**

#### ***Permitted development***

*MA. Alteration etc. of prison fences*

#### ***Permitted development***

*MA. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure in connection with a prison.*

#### ***Development not permitted***

*MA.1 Development is not permitted by Class MA if the height of any gate, fence, wall or other means of enclosure would exceed 5.5 metres above ground level.*

#### ***Interpretation of Class C***

*MA.2 For the purposes of Class MA “prison” has the same meaning as in Class M of this Part..*

## **Appendix 4 - Schedule 2, Part 19 Class A of the GPDO (2015)**

### **Schedule 2, Part 19 of the Town and Country Planning (General Permitted Development) Order (2015) (as amended) – Class C – Development by the Crown or for national security purposes**

#### ***Permitted development***

A. *General development by the Crown*

#### ***Permitted development***

A. *The erection or construction and the maintenance, improvement or other alteration by or on behalf of the Crown of—*

- a) *any small ancillary building, works or equipment on Crown land required for operational purposes;*
- b) *lamp standards, information kiosks, passenger shelters, shelters and seats, telephone boxes, fire alarms, drinking fountains, refuse bins or baskets, barriers for the control of people and vehicles, and similar structures or works required in connection with the operational purposes of the Crown.*

#### ***Interpretation of Class A***

A.1 *The reference in Class A to any small ancillary building, works or equipment is a reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.*



## **Appendix 5 - Schedule 2, Part 19 Class C of the GPDO (2015)**

### **Schedule 2, Part 19 of the Town and Country Planning (General Permitted Development) Order (2015) (as amended) – Class C – Development by the Crown or for national security purposes**

#### ***Permitted development***

*C. Development on operational Crown land*

#### ***Permitted development***

*C. Development carried out by or on behalf of the Crown on operational Crown land for operational purposes consisting of—*

- c) the installation of additional or replacement plant or machinery;*
- d) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus;*  
*or*
- e) the provision, rearrangement or replacement of a private way, private railway, siding or conveyor.*

#### ***Development not permitted***

*C.1 Development described in Class C(a) is not permitted if—*

- a) it would materially affect the external appearance of the premises; or*
- b) any plant or machinery would exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.*

#### ***Interpretation of Class C***

*C.2 In Class C, “Crown land” does not include land in or adjacent to and occupied together with a mine.*



**CUSHMAN &  
WAKEFIELD**