

SUPPORTING STATEMENT

**Application for a Lawful Development
Certificate for Rapid Deployment Cells at
HMP Haverigg**

On behalf of Ministry of Justice

February 2024

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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 Haverigg under Permitted Development under Schedule 2, Part 7, Class M of 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 Cumberland 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
 - Permitted Development Assessment – Section 4
 - Conclusion – Section 5
- 1.6 The following plans and information are submitted in support of the application:
 - Application Forms
 - Site Location Plan (655854-5236-HLN-ZZZ-XX-DR-A-1000)
 - Demolition Plan (655854-5236-HLN-ZZZ-XX-DR-A-1001)
 - Proposed Site Plan (655854-5236-HLN-ZZZ-XX-DR-A-1003)
 - Proposed Roof Plan (655854-5236-HLN-ZZZ-XX-DR-A-1006)
 - Block 1 Proposed Elevations (655854-5236-HLN-ZZZ-XX-DR-A-1030-D2-A0900)
 - Block 2 Proposed Elevations 1 of 2 (655854-5236-HLN-ZZZ-XX-DR-A-1031-D2-A0900)
 - Block 2 Proposed Elevations 2 of 2 (655854-5236-HLN-ZZZ-XX-DR-A-1032-D2-A0900)
 - Block 3 Proposed Elevations (655854-5236-HLN-ZZZ-XX-DR-A-1033-D2-A0900)
 - Block 4 Proposed Elevations (655854-5236-HLN-ZZZ-XX-DR-A-1034-D2-A0900)
 - Block 5 Proposed Elevations (655854-5236-HLN-ZZZ-XX-DR-A-1035-D0100)
 - Block 6 Proposed Elevations (655854-5236-HLN-ZZZ-XX-DR-A-1036-D2-A0900)
 - Ground Investigation Report prepared by Soil Technics
 - Flood Risk and Drainage Strategy prepared by Sutcliffe
 - Habitat Regulations Assessment prepared by Sam Watson Ecology

2. Site and Surroundings

Site Location and Description

- 2.1 HMP Haverigg is a Category D male open prison located in the countryside, 1km to the west of the village of Haverigg in Cumbria. The site falls within the administrative boundary of Cumberland Council.
- 2.2 The development is proposed on land within the existing site boundary of the prison. The site previously comprised 2no. two storey accommodation blocks. Prior approval for the demolition of the accommodation was granted in September 2021 under application ref: 4/21/2356/0F1, the works have now been undertaken and the site has been cleared.



Figure 1 Site Location Plan

Surrounding Area

- 2.1 HMP Haverigg is located in a rural part of Cumbria. Immediately to the north of the prison is North Lane, beyond this is arable land. To the east of the prison is a small residential estate, the town of Millom is also 4km east of the site. Immediately to the south of the prison is arable land, beyond this is the coastline and to the west of the prison is the former RAF Millom base.
- 2.2 Vehicular access is from North Lane. The local highway network is predominantly minor roads. The closest railway stations are at Millom (2.6 miles by road) and Silecroft (4 miles by road). The closest bus stop is located approximately 1.8-1.9km to the west from the site, along Poolside/Haverigg Road.
- 2.3 The site is broadly flat without any major topographical features. Whilst the prison occupies a large area, the buildings are relatively low level and do not appear dominant in the landscape as the buildings are predominantly 2 storeys in height.

- 2.4 There are no designated heritage assets – world heritage sites (WHS), scheduled monuments, listed buildings, conservation areas, registered parks or gardens or historic battlefields – in the Site and the site is located in Flood Zone 1.
- 2.5 The application site sits adjacent to the Duddon Estuary Ramsar, Morecambe Bay and Duddon Estuary SPA, and Morecambe Bay SAC, and Duddon Estuary Site of Special Scientific Interest (SSSI).

Rapid Deployment Cells

- 2.3 Throughout the COVID-19 pandemic, the Ministry of Justice introduced temporary accommodation cells across the prison estate to increase space and help reduce the spread of coronavirus. 1,150 units have been installed at 29 prisons in the estate. Approximately 850 remain in use.
- 2.4 The Ministry of Justice has explored the potential to use this format of units as part of the management of short-term population at sites. The units have been used successfully to support compartmentalisation and have proven to be beneficial to prisoners who are accommodated in them.
- 2.5 In 2022 the Prime Minister announced funding for an additional 1,000 more prison places through temporary accommodation. This accommodation, Rapid Deployment Cells, will be designed and built to a Category C standard as a minimum and used to support short-term prison population pressures and maintenance and refurbishment projects.

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 at Appendix 1.

Part 7 Class M

- 3.2 Part 7 Class M was updated in December 2023 to include open estate prisons. An open estate prison is defined as a prison used for the confinement of prisoners in open conditions located on a site without a closed perimeter.
- 3.3 In order for permitted development rights to be exercised it is necessary that the following conditions must be met:
- 1) The proposed extension must be no bigger than 25% of the existing cumulative footprint on or after 21st December 2023;
 - 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 5 metres 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 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.
- 3.4 Where proposed development under Class M relates to the erection of an open prison building the developer must undertake the following before development can begin:
- i. Assess the contamination and flood risks of the development;
 - ii. Identify measures to reduce, so far as practicable, any contamination or flood risks of the development;
 - iii. Where the development is in an area within Flood Zone 3, carry out prior consultation with the Environment Agency; and
 - iv. Provide written notification to the local planning authority of the proposed development.

4. Permitted Development Assessment

- 4.1 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.
- 4.2 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 Haverigg.
- 4.3 HMP Haverigg is part of the open estate. The accompanying drawing '655854-5236-HLN-ZZZ-XX-DR-A-1003 Proposed Site Plan' shows the proposed layout of the modular units within the site.
- 4.4 The installation comprises 60 one storey accommodation cells, with 15 ancillary cells including multi-use areas, stores, staff areas and a servery.
- 4.5 Additional units will help to support inmates physical and mental wellbeing through short-term prison population pressures or maintenance and refurbishment projects.
- 4.6 The footprint of HMP Haverigg, as it stood on 21st December 2023 is 30,148m². The floorspace limit available under the permitted development rights is therefore 7,537 m².
- 4.7 The footprint of the proposed modular units is 1,011 m², which is comfortably within the permitted development limits.
- 4.8 The proposed indicative modular unit height is 2.8m and the units are located c. 15m from the southern fenceline and 5m from the eastern fenceline.
- 4.9 The application is not within the curtilage of a listed building and the application site does not comprise land that has been used as a playing field in the last 5 years.
- 4.10 A Ground Investigation Report has been prepared by Soil Technics and is submitted with this application. The report confirms that the site falls outside of a Coal Mining Reporting Area and there are no active mineral sites recorded within close proximity of the site. There are no potential risks from contamination that have been identified and no further investigation is considered necessary.
- 4.11 A Flood Risk Assessment has also been prepared by Sutcliffe in support of this application. The report confirms that the site is situated in Flood Zone 1 and there are no sources of flooding that affect the site. The overall flood risk to the proposed development is therefore considered to be low. Surface water drainage for the proposed development will be designed in accordance with current guidance, including an allowance for climate change so that flood risk is not increased as consequence of the development.
- 4.12 As the site is located within Flood Zone 1 there is no requirement to carry out prior consultation with the Environment Agency.
- 4.13 Written notification has been sent separately to Cumberland Council along with the documents and information listed in sub paragraph I (iv) of Class M.
- 4.14 The proposal is therefore compliant with the Permitted Development Requirements.

5. Conclusion

- 5.1 This statement and the accompanying documentation set out how the proposed development clearly constitutes permitted development under Schedule 2, Part 7 Class M of the GPDO (2015) (as amended).
- 5.2 The proposed modular units will provide additional accommodation for the existing prison population, to provide short-term accommodation for prisoners.
- 5.3 The Ministry of Justice has a target for the proposed development to be installed and operational by February 2025. 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 - 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, 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 December 2023 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 December 2023; 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 21st December 2023

Conditions

M.2 *Development is permitted by Class M subject to the following conditions—*

- i) where proposed development under Class M relates to the erection, extension or alteration of an open prison building, before beginning development the developer must—*
 - i. assess the contamination and flood risks of the development;*
 - ii. identify measures to reduce, so far as practicable, any contamination or flood risks of the development;*
 - iii. where the development is in an area within Flood Zone 3, carry out prior consultation in accordance with paragraph M.2B (procedure for prior consultation under Class M); and*
 - iv. provide written notification to the local planning authority of the proposed development with the documents and information listed in sub-paragraph (j);*

- j) the documents and information specified in sub-paragraph (i)(iv) are—*
 - i. a written description of the proposed development;*
 - ii. a plan indicating the site and showing the proposed development;*
 - iii. a drawing, prepared to an identified scale, showing—*
 - (aa) in the case of a building to be erected, the proposed external dimensions and elevations of that building; and*
 - (bb) in the case of a building to be extended or altered, the external dimensions and elevations of that building both before and after the proposed extension or alteration;*
 - iv. the proposed commencement date;*
 - v. written confirmation that development will not take place on any land used as a playing field, and remaining in that use, at any time in the 5 years before the proposed commencement date;*
 - vi. the developer's contact address; and*
 - vii. the developer's email address if the developer is content to receive communications electronically.*



**CUSHMAN &
WAKEFIELD**