

## Open Agenda

Copy No:

No: 22/2020

### Memorandum for Executive Council

**SUBJECT** Full Development Application: Proposed New HM Prison and Custody Building, Bottom Woods

Memorandum by the Chief Secretary

**ADVICE SOUGHT** 1. **Executive Council is asked to consider and advise whether FULL Development Permission should be granted, with Conditions, to build a new prison and custody building on the land in Bottom Woods as recommended by the Land Development Control Authority (LDCA).**

**BACKGROUND & CONSIDERATIONS** 2. At the Land Development Control Authority meeting held on 26 February 2020, it was recommended that Full Development Permission be granted for a New Prison and Custody Building at Bottom Woods, subject to conditions as set out in Section F of the report to the LDCA included as Annex A.

3. In accordance with the directions issued by the Governor-in-Council to the Chief Planning Officer on 14 April 2014 under Section 23(1) of the Land Planning and Development Control (LPDC) Ordinance, 2013, the Chief Planning Officer is required to refer to the Governor-in-Council all applications for Development Permission which proposes (Point 7) the development of buildings or sites, which are (or are proposed to be) used for (b) the custody of persons sentenced or ordered by the court to be imprisoned or otherwise detained, whether for a fixed period or indefinitely or otherwise for purposes connected with the administration of justice or emergency services. A copy of the directions is attached at Annex B for easy reference.

4. Section 17 (b) reads: Full Development Permission, the effect of which is to permit the development subject to the terms and conditions of the grant of full development permission.

5. The following are the relevant Primary Policy clauses from the Land Development Control Plan (LDCP) that are applicable in the assessment of the proposed development:

- a) CZ1: Primary Policy: There will be a presumption in favour of retaining the natural appearance and ecology of the Coastal Zone and the grant of development permission will therefore be regulated by the following implementation policies with the presumption that all development shall include provision for rainwater collection, storage and re-use, commercial development shall include provision for grey

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water treatment and re-use, and all development shall include for sustainable treatment of sewage without risk of pollution.

- b) SI1: Primary Policy: Development permission will be granted for all development reasonably needed for the social development of the Island and such development shall be designed to be sustainable in all services including collection, storage and re-use of rainwater and storage, treatment and re-use of grey water;
- c) ES1: Primary Policy: Development permission will be granted for infrastructure necessary for the effective provision of emergency services appropriate to the Island's development needs, including ambulance, fire and rescue; and for effective policing, vehicle testing, and customs and immigration control.
- d) NH.3: Where proposed development is likely to have an adverse effect (either individually or in combination with other developments) on St Helena's native species and habitats including the Wirebird, permission will be granted only when the benefits of the development outweigh the impacts that it is likely to have on the national and international importance of that species or habitat. The proposals must include measures to ensure that any adverse effect is mitigated or compensated and this will be subject to monitoring to ensure that the measures are carried out effectively.

## 6. RATIONALE BEHIND THE PROPOSAL

- a) The existing Prison and Police Custody Suite located in Jamestown St Helena has been identified as not fit for purpose, including for the future, following visits and advice from the FCO Prison Adviser. The current conditions and facilities at the Prison are substandard.
- b) St Helena Government has noted the concerns raised in the FCO Adviser's 2010 report that conditions within the prison may not withstand a challenge under Article 3 of the Human Rights Act 1998 and also recognises that a new purpose-built building would provide better facilities for prisoners.
- c) The Prison population is rising and is likely to continue to rise. The current building and environment does not lend itself to further development without considerable financial implication. Therefore a project to lead a full relocation of the Prison has been initiated.
- d) The proposed development is to provide a new prison centred around 26-single occupancy cells, in a single-storey block configured in a cross shape, together with associated rooms to provide: education, rehabilitation, training, medical room, sports, healthcare, worship, kitchen, recycling, storage, visiting, administration works, horticulture and security.

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e) The application site is approximately 10.85 acres and is part of a larger greenfield site that is approximately 94.0 acres and is currently used for agricultural grazing. The actual enclosed area of the development, considered to be the built development, is approximately 5.20 acres and this is 5.5% of the total greenfield site.

f) This larger site had been identified for wirebird conservation mitigation to offset the environmental impact for the development associated with the airport. There was a requirement to prepare a conservation management plan for the future conservation and management of this site. Unfortunately, this has not been prepared, however the site has continued to be self-managed and used for agricultural grazing.

g) The application is seeking full development permission and has provided full detailed layout and design including the access road and car-parking provided with the application. The main prison development is within an area with an enclosed security wall and fence and with earth mounding around the external perimeter on three sides. There is car-parking outside the secured area for visitors and secured internal parking for the prison use. Being a secure development and in accordance with Home Office advice the applicant is not required to include all design details for such development to be in the public domain in the interest of building security.

## 7. PLANNING HISTORY

7.1 The Proposed New HM Prison and Custody Building was considered by the Land Development Control Authority (LDCA) for OUTLINE development permission on 4 September 2019, development application reference 2018/77. The LDCA recommended to the Governor-in-Council to approve the development application with a number of conditions. The Governor-in-Council discussed the development application at the Executive Council meeting on 17 September 2019 and the Application for OUTLINE development permission was approved with conditions as recommended by the LDCA. The decision notice to the applicant was issued on 8 October 2019 confirming the grant of development permission subject to the conditions as set out below:

a) Permission: This Outline Permission will lapse and cease to have effect on the day, two years from the date of this Decision Notice unless an Application for Full Development Permission has been submitted by that date – extension may be requested with written approval from the CPO on behalf of the Authority.

b) Reason: required by Section 31(1) of the Land Planning and Development Control Ordinance 2013.

7.2 The Application for Full Development Permission referred to in Condition (1) above shall include:

a) Details with regards to Site Preparation and Excavation, including Access from the Main Road, services, stability of land via gabions, drainage systems,

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treatment of the sewage system and re-use of grey-water;

b) Final Building Designs, service installations, Exterior Finishing (Materials and Colour Schemes) as well as Landscaping Details and security fencing and lighting;

c) Complete Infrastructure Service Supply Drawings (Water, Sewage Handling, Storm-water Management (roofs and hard surfaces) as well as Electricity Supply);

e) Details regarding Management of existing on-site Electricity Infrastructure and possible realignment thereof to ensure continued short-term (i.e. during potential realignment) as well as long-term service provision to the area as a whole.

f) Conservation Management Plan for the Important Wire Bird Conservation Area with an appropriate level of funding for a period of at least five years post construction of the development; the commitment to the care and mitigation of the land as an important Wirebird area to be reviewed at the detailed stage to take account of the fact that any funding allocation will be considered during the annual planning and funding process.

g) Reason: to ensure Appropriate, Sustainable and Sensitive Implementation of the site in accordance with LDCP Policies relating to the Coastal Zone and the Important Wire Bird Conservation Area management to overcome the impact of the disturbance caused by the development.

7.3 The Governor and Members are reminded that the Outline Development Application was submitted with a full EIA and there were a number of objections raised over the procedures for consultation and the content of the original EIA. In view of this, the applicant was requested to review the EIA document and as a consequence a revised EIA was submitted to support the development. There was a period of consultation in accordance with the regulations. Whilst there were still objections raised during consultation however, the Governor and Members were assured that the revised EIA has comprehensively considered the impact of the proposed development on the environment and its location and the mitigation measure that will be put in place to reduce the adverse impact of the proposed development are considerable to enable the development to be acceptable in this location and the appropriate conditions were included with the development permission granted. The development application has been submitted in compliance with the conditions.

7.4 The Governor and Members are also advised that the EIA is only required with the initial development application and that was in this instance the Outline Development Application. As the Full Development Application is in compliance with the Outline permission granted on 17 September 2019, an EIA is not required in support of the full development application.

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### 8. DEVELOPMENT PROPOSAL

8.1 The development site lies approximately 280m north of the Haul Road that provide a link between the Airport and Rupert's Wharf. The access to the area of proposed development will be via a new (approximately 400m) access road on the northwestern boundary, see Diagram 1 (Site Location) and Diagram 2 (Site Layout with Access Road).

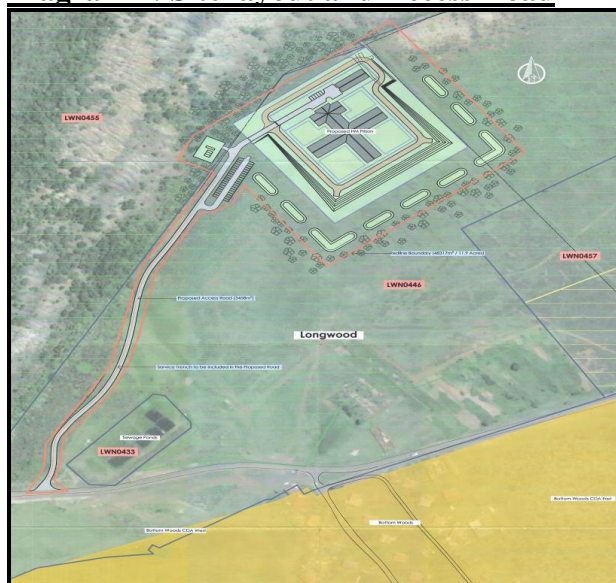
**Diagram 1: Site Location**



8.2 The application site is approximately 10.85 acres and is part of a larger greenfield site that is approximately 94.0 acres situated in a predominantly agricultural area, also designated as a Wirebird area. The actual enclosed area of the development, considered to be the built development is approximately 5.20 acres and this is 5.5% of the total greenfield site.

8.3 The Development site is within a predominantly agricultural area, with the immediate adjacent land used for animal grazing. The area is also designated as an Important Wirebird Zone.

**Diagram 2: Site layout and Access Road**



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8.4 The proposed site is situated on a small portion of the Proposed Wirebird National Conservation Area in Bottom Woods, locally known as the Goat Pen. It is also close to the Meteorological Office and proposed Sports field and associated infrastructure. There is a residential area to the north to be developed as a housing led CDA with associated commercial development and supporting infrastructure.

8.5 The site forms the apex of a hill and land falls away mainly to the North and South. The site is on the Southern slope grassland but for the aforementioned car parks.

8.6 The area to the north, east and south-eastern side of the Haul Road is rugged terrain beyond which are the civic amenity site and the Millennium Forest. The area directly south of the Haul Road in line with the development site is a mix of open space, grassland, agricultural and residential and the area to the west is mainly agricultural. The open space to the west of the existing residential area is the Bottoms Wood CDA being developed for around 50 residential units, retail use and community facilities. This development was granted hybrid development permission by the Governor-in-Council in December 2019. The residential properties are a considerable distance from the proposed development site to have any significant impact on the amenities of the residential properties and other uses.

8.7 A new dedicated access road will connect the development to a new signalised junction at the Haul Road. When completed, this road will minimise the impact of construction and later operational traffic on the local road network.

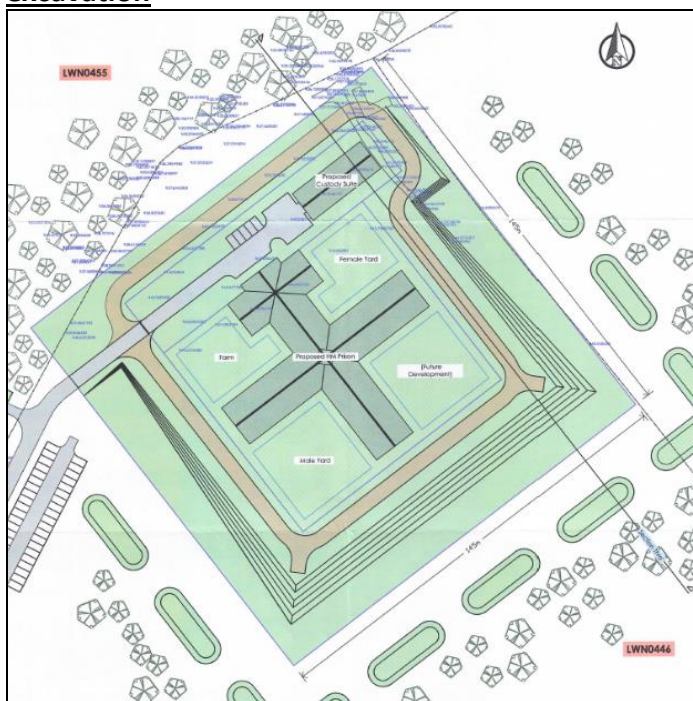
8.8 The site falls within the boundary of the Bottom Woods Important Wirebird conservation area and therefore, concerns are that the proposed prison development will significantly impact on the Wirebird habitat within a protected area. However, the Conservation Management Plan that is part of this development application considers these issues and outlines management actions for the future conservation and management of this site. The Management Plan lists phased implementation of these actions during preconstruction, construction and five years post construction. The actions proposed will not only ensure Wirebird safety but will also deal with issues regarding noise pollution, light pollution and other pollutants identified in the EIA. The purpose of the management plan is twofold; to enhance the areas of the existing grassland by reducing invasive, non-native scrub cover and the planting of endemic plants, and to implement a new rotational farming system, both of which will contribute towards improving and enhancing the existing poor quality Wirebird habitat. In line with the goals of the St Helena Invertebrate Conservation Strategy 2016 to 2021, the management plan's objective is to halt and reverse habitat loss and fragmentation, through expanding habitat area, quality and connectivity, and take action to contain the spread of invasive plants and animals, and reverse

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their damage through conventional and innovative measures based on priority endemic species and sites.

8.9 The management plan also notes, as previously conveyed in the EIA that the site of the new prison is currently unsuitable for Wirebirds due to low grazing pressure and the consequent growth of tall vegetation.

**Diagram 3: Layout of the proposed development showing site excavation**



8.10 The building will comprise of single storey and traditional St Helena styling, with its concrete floors and ceilings, rendered concrete blockwork under an inverted box ribbed roofing. The new prison is centered on around 26-single occupancy cells, configured in a cross shape, together with associated rooms to provide: education, rehabilitation, training, medical room, sports, healthcare, worship, kitchen, recycling, storage, visiting, administration works, horticulture and security.

8.11 The building will be of traditional St Helena styling, concrete floors and ceilings, rendered concrete blockwork, with stone cladding where appropriate, under IBR roofing. Adjacent to the main structure will be allocated female and male fenced yards and a fenced garden area. The entire site will be surrounded in a specific prison grade double fence to comply with appropriate UK Ministry of Justice Prison Standards. The prison site will utilize green renewable technologies such as Photovoltaics, solar water heating, wind catchers, rainwater harvesting and a dedicated sewage treatment solution.

8.12 The new prison build includes excavation and site strip to form the build platform. Surface & Foul Drainage will be designed using sustainable

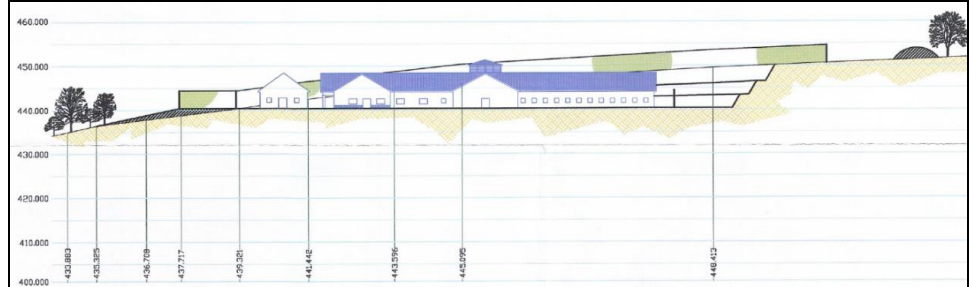
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urban drainage system (SUDS). The site demands extensive and complex underground service installations, Electricity, Water, Communications, together with CCTV, street and security lighting, which will require security installed in a large number of ducts, closely coordinated between all providers.

**Diagram 4: Site Section Detail**

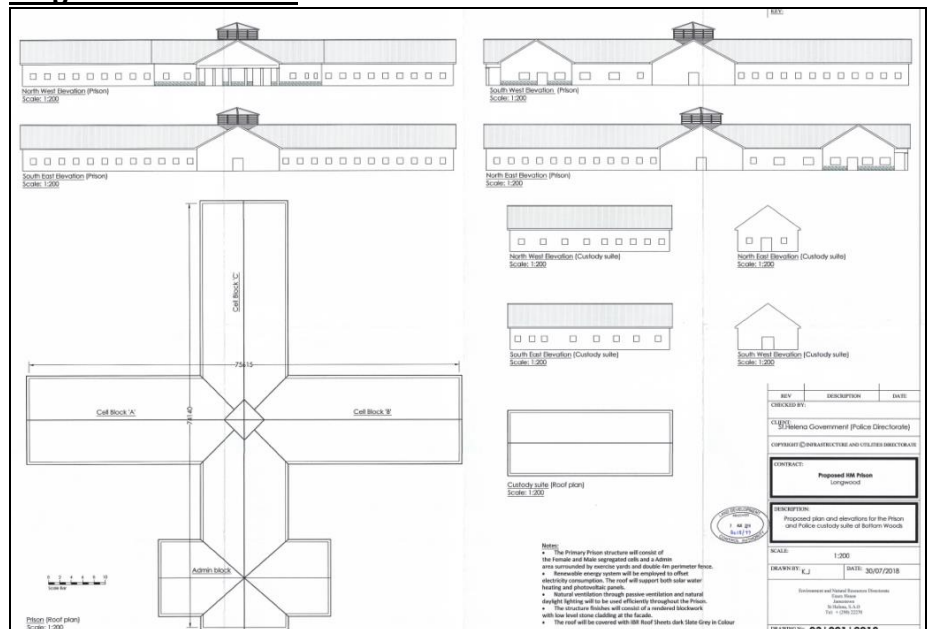


8.13 Adjacent to the main structure will be the fenced female and male exercise yards and a fenced garden area. The entire site will be surrounded in a specific prison grade double fence to comply with appropriate UK ministry of Justice Prison Standards.

8.14 The prison site will utilize green renewable technologies such as Photovoltaic panels, solar water heating, wind catchers, rainwater harvesting and a dedicated sewage treatment solution.

8.15 The access road is proposed to lead directly off the Haul Road and run along the North West boundary to the prison site with 40 parking spaces to meet the parking requirements of the prison and visitors, the increased capacity is for future resultant staff and visitor increase, these parking spaces will be located next to the access road but outside of the perimeter fencing.

**Diagram 5: Elevations**



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**Diagram 6: 3D Conceptual**



### 9. REPRESENTATIONS

9.1 There were two representations received to the development application advertised in December 2019 from St Helena Airport Limited (SHAL) and St Helena National Trust (SHNT). The representations received are summarised below and with the Officer assessment;

9.2 The SHAL questions and comments raise concern in respect of the impact of the proposed development on the functions of the Airport and its aviation operations, however some are very general questions, comments or concerns about the overall development plans for the Bottom Woods and Horse Point area which cumulatively may have a direct or indirect effect on the Airport and aviation operations.

9.3 SHAL concludes that the development plans of the prison are noted and at present are expected to have a very low impact upon Airport operations. However, their concerns relate to the following:

- a) Roof lights: their specification, direction of illumination and intensity has potential to dazzle or confuse pilots on final approach and may also attract sea birds at night
- b) Sewage Treatment Plant: is it an enclosed plant and will maturation ponds be used;
- c) Wind catchers: have requested detailed specification to ensure that they do not generate glare;
- d) Design / Pre-Construction Phase – fruit trees: what is the plan to control bird activity attracted by fruit trees;
- e) Overall changes to the Bottom Woods area: the number of new developments proposed and planned for Bottom Woods and Horse Point, i.e. additional housing, the creation of a recreational area, petrol station, supermarket and a ground satellite station at Horse Point will

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create a significant change to the whole area and unless carefully managed could have a negative effect on the current wildlife environment and alter the behaviour of plants, animals and birds.

### Officer Response:

9.4 The issues and concerns raised by SHAL can be overcome through design and detail review as set out below:

- a) Roof lights can be designed with Velux black-out blinds that can be programmed to close automatically at a certain time of the day or manually closed at any time of the day. The blinds not only block the travel of light externally but also prevent over heating in the building
- b) The sewage treatment plant is a covered area and should have little or no impact on the system or the local environment
- c) The wind catcher construction will be a timber structure and not glazed. The construction of timber framework with timber louvered slats on all four sides of the wind catcher allows air to be drawn on the leeward side and thus drawn down into the interior of the building on the opposite side.

9.5 It is inevitable that there may be some minimal impact on the Airport and aviation function of SHAL arising from the development and a potential impact on the local wildlife and the natural environment. These issues were discussed in detail as part of the EIA submitted with the Outline development application and considered in the decision making. The Conservation Management Plan address the issues of environmental management of the area and conservation mitigation. With regards to future development at Horse Point, this is currently at an early stage of the development process and future development applications will require EIA that will and should consider the cumulative impact as part of its development assessment.

9.6 The issues raised by SHNT in this representation are regurgitation of the matters that were previously raised at the outline development application stage and discussed in the reports. The issues raised relate to the following:

- a) the effect of the proposed development on the National Conservation Area, the importance of the Wirebird as the Island's only surviving endemic land bird and its habitat that is protected under the EPO and is categorised as vulnerable on the IUCN Red List of species threatened with extinction and that its conservation is of international significance for global biodiversity and crucially appropriate mitigation and compensatory measures should be put in place to safeguard the population of Wirebirds in the area of the proposed development;

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- b) there are several planning applications in progress that affect areas of important Wirebird habitat – so each individual application needs to be assessed for cumulative impact;
- c) annual Wirebird Census is underway by the SHNT this month who will be happy to share the updated population count with the Planning Office once the data has been processed;
- d) a condition, requiring consultation with SHNT on the appropriate mitigation and compensatory measures to be put in place to safeguard the population of Wirebirds at the development area.

### Officer Response:

9.7 In view of the fact that the principles of the development has already been established with the grant of outline development permission after careful consideration of the proposed development and the supporting documents and continuing to raise these issues again at the full development application stage is a little meaningless. The representation has raised no comments or observations on the proposed design and/or the content of the Conservation Management Plan (CMP). The CMP states that it has been prepared in full consultation with the Conservation Officer at SHNT. The purpose of this Plan is to address any outstanding mitigation concerns raised in the EIA for the future conservation and management of the area's importance for the Wirebird. The issues regarding the cumulative impact of other developments in the area has already been responded to in the earlier representation, except to emphasise that where an EIA is required to support the proposed development, it has regard to present and proposed development in the vicinity and the cumulative impact will form an important assessment and mitigation measure that will address the potential impacts.

9.8 SHNT also submitted further representation after the closing date of consultation received on 30 January following discussion in an email exchange with applicant stating that "It is formally objecting to the development and the development cannot be considered as this relates to issues of principle." The communication does not provide any reason or explanation for this objection.

9.9 Any issues of objection against the principles of proposed development should have been made at the Outline Development Application stage as the Governor and Members are aware, that these issues were fully discussed and addressed in the report at the 17 September 2019 Executive Council meeting when Outline Development Permission was granted. Furthermore, as the latest representation was received outside of the consultation period and there is nothing in this representation that justifies deliberation on the proposal that has not previously been raised, its receipt is acknowledged but does not need to be discussed further.

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### 10 OFFICER'S ACCESSMENT

10.1 Outline planning permission was granted for this development with a condition that the application for full development permission shall include a number of details and design considerations for development with regards to the site and excavation, sewage system, services details and a conservation management plan for the Important Wire Bird Conservation Area with an appropriate level of funding for a period of at least five years post construction of the development. The level of information submitted with this full development application is considered to be sufficient to determine design details of the development and is in compliance with the conditions.

10.2 The proposed development of HM Prison is a building that is of vital National Security, and certain information should not be in the public domain where knowledge could compromise the prison security. In the application form and the supporting design access statement, general information in respect of the development, site preparation and service layouts is provided and all services will be underground and currently there are no existing services on the site.

10.3 The applicant has submitted the Conservation Management Plan as part of the development application and in this respect all details and explanations from the applicant have been noted above in relation to the conditions of the outline approval, the Planning Officer confirms to the Authority that it supports the development application.

10.4 The development falls within the Heritage Coastal Zone and can be supported in terms of siting, scale, layout, proportion, details and external materials and therefore can be supported by policies. It is recommended that Full Development Permission be granted subject to the conditions set out in Section F of the LDCA report attached as Annex A to this Memorandum.

### FINANCIAL IMPLICATIONS

11. Executive Council acts as the Planning Authority in this case.

### ECONOMIC IMPLICATIONS

12. In the longer term, the construction of the prison will provide employment opportunities for the construction sector.

13. Vacating the existing prison, located in the centre of Jamestown, provides a good economic development opportunity, for example to use the old prison as a museum or other tourist facility.

### CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES

14. Not Applicable.

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### **PUBLIC/SOCIAL IMPACT**

15. The current prison and police custody facilities are considered to be substandard, inadequate and dated and not fit for purpose. The FCO Adviser's 2010 report raised concerns that the conditions within the prison may not withstand a challenge under Article 3 of the Human Rights Act 1998 and also recognises that a new purpose-built building would provide better facilities for prisoners.
16. The refurbishment of the existing building would not be able to adequately improve the facilities to meet with the current day minimum standards required of such a building to operate effectively and efficiently. In this regard, no adverse public/social impact is envisaged.

### **ENVIRONMENTAL IMPACT**

17. Before the submission of the Outline Development Application in 2019, an exercise was undertaken to identify a site that would be suitable for a new prison and police custodial suit. The Bottom Woods site was considered to be the best for this purpose. There are environmental issues related to this site as it is part of a larger site that is identified as important for wirebird conservation. There are, however, no plans in place for the conservation management of this wider area and as a result its potential for wirebird conservation has been undermined.
18. The EIA evaluating the impact of the proposed development on the environment concludes that whilst there is moderate to minor impact on a number of receptors assessed, it is considered to be negligible due to lack of conservation management of the area. With a conservation management plan there is an opportunity that the area could be restored for wirebird conservation. As Outline development permission has been granted with a condition that requires the conservation of the site to be managed effectively with an appropriate level of funding for a period of at least five years post construction and the conservation of the site to be commenced as soon as possible following grant of development consent, the future of the adjoining area can be rejuvenated for the wirebird conservation.

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### **PREVIOUS CONSULTATION/ COMMITTEE INPUT**

19. Whilst there was no consultation in the identification of this site and in preparing the development proposals outside of the main stakeholders, there has however been wider consultation through the development application process, with extended period of consultation to assess the EIA and development application.
20. The issues raised by the respondent to the consultation were fully addressed with the consultation on the revised EIA when the decision was made on the Outline development application in respect of the proposed development.
21. The Full Development Application was published in accordance with the requirements of the Land Planning and Development Control Ordinance, 2013 and Relevant Stakeholders were consulted.

### **PUBLIC REACTION**

22. Key Stakeholders have responded and their views have been considered by the LDCA.
23. Two representations have been received from general stakeholders in respect of the development applications. The issue raised by the representation have been responded to by the CPO in this report and more fully in the report to the LDCA.
24. No objections from Stakeholders were received in respect of the Conservation Management Plan and its content.
25. This could possibly generate public and media interest but there are unlikely to be any issues of concern.

### **PUBLICITY**

26. The decision will be covered in the radio briefing following the meeting.

### **SUPPORT TO STRATEGIC OBJECTIVES**

27. This paper supports Strategic Objective 1.1 – ‘Ensure effective investment in physical infrastructure’. The development of the new prison and police custody suit will provide much needed modern facilities to replace the outdated facilities.
28. It also supports Strategic Objective 4.1 ‘Develop a safe environment’ in that the new Prisons will provide a more safe facility for inmates and more importantly, for the officers and other operatives in the custodial service.

### **LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS**

29. Goal 7 of the SEDP is to improve public infrastructure, to provide an environment that promotes investment, attracts visitors and tourists, and encourages the return of St Helenians living abroad. A well-functioning prison that meets appropriate and internationally-recognized standards will support this goal.

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### **OPEN/CLOSED AGENDA ITEM**

30. Recommended for the Open Agenda.

Corporate Support  
Corporate Services

27<sup>th</sup> February 2020

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