



**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/21/2053/OE1
2.	Proposed Development:	CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE - INSTALLATION OF A BIOMASS BOILER (CONTAINED IN SHIPPING CONTAINER) TO A DAIRY PARLOUR
3.	Location:	BAILEY GROUND FARM, SANTON WAY, SEASCALE
4.	Parish:	Seascale
5.	Constraints:	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Off Coalfield - Data Subject To Change, DEPZ Zone - DEPZ Zone
6.	Publicity Representations &Policy	See Report
7.	Report: SITE AND LOCATION <p>The application site forms that of long established working dairy farm with multiple purpose built farm buildings contained with farmyard. The site is located on eastern boundary of the town of Seascale with open countryside to the south/east and a residential housing estate to the North West.</p> PROPOSAL <p>This application seeks a Lawful Development Certificate (LDC) for the erection of a shipping container within the existing application site. The shipping container is used for the housing of a biomass boiler and measures 2.43 metres wide, 6.09 metres in width and 2.43 metres in height. A small metal flue which extends out of the top of the container.</p> CONSULTATION RESPONSES <u>Seascale Parish Council</u> <p>Seascale Parish Council have been consulted with regard to this application, in an email received from</p>	

them on the 4th March 2021, they confirmed that they had no comments to make on this application.

National Planning Practice Guidance clarifies that there is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

PLANNING LEGISLATION

Town and Country Planning Act 1990 – Section 191 as amended by Section 10 of the Planning and Compensation Act 1991

Clarification of the Development that has taken place

In terms of the need for planning permission, a review of Development Control Practise confirms the following:

“Containers stored on land, whether full or empty, would normally be judged as operational development and tantamount to a permanent building. An appeal example of such a judgement is Herefordshire 18/6/2012 DCS No 100-077-815 where an LDC which sought confirmation that the siting of storage containers did not require planning permission was rejected on the basis that they involved operational development.”

Legal Framework

The Town & Country Planning Act 1990 Section - 171B Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

ASSESSMENT

A lawful development certificate enables applicants to establish whether a proposed or existing development is lawful for planning purposes. In this instance, the application relates to the erection of a shipping container for the housing of a Biomass Boiler. A review of case law confirms that the erection of a shipping container on land constitutes operation development and therefore a period of 4 years is required beginning on the date on which the operations were substantially complete.

The following evidence has been submitted to support this lawful development certificate:

	<ul style="list-style-type: none"> - Site plan - Site photos - An Invoice for the installation of the Biomass Boiler - Plan of the shipping container. <p>The agent has confirmed that the shipping container and biomass boiler were installed around the 11th March 2015 to the application site address and has submitted an invoice to verify this.</p> <p>Based on the evidence submitted it is clear that shipping container has been in place for a period exceeding 4 years, therefore the shipping container is now immune from enforcement action.</p> <p>On this basis it is appropriate for a lawful development certificate to be granted in this case.</p>	
8.	<p>Recommendation:</p> <p>Approval of Certificate of Lawfulness</p>	
Case Officer: A. Adams		Date : 01/04/2021
Authorising Officer: N.J. Hayhurst		Date : 01/04/2021
Dedicated responses to:- N/A		