

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/21/2137/0E1
2.	Proposed Development:	LAWFUL DEVELOPMENT CERTIFICATE TO SEEK CONFIRMATION THAT A MATERIAL COMMENCEMENT HAS BEEN MADE TO PLANNING PERMISSION 4/18/2332/0F1
3.	Location:	STACKWOOD, GILGARRAN
4.	Parish:	Distington
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: NO Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: SITE AND LOCATION <p>The application site relates to the land adjacent to the dwelling known as Stackwood in Gilgarran. The land was previously used as garden land for the dwelling and has open fields to the north and east and other residential development to the south and west.</p> <p>Planning permission was approved in October 2018 for a four bedroomed dwelling (application reference 4/18/2332/0F1 relates).</p> PROPOSAL <p>This application seeks a lawful development certificate to confirm that a lawful start has been made in order to secure the planning permission in perpetuity.</p>	

CONSULTATION RESPONSES

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 context of a specific application. This normally only relates to Lawful Use applications for existing uses. In this case the application relates to proposed development and seeks to establish that the works undertaken so far are considered to constitute a lawful start. In such cases 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.

LEGAL CONSIDERATIONS

For the purposes of clarification a lawful development certificate enables applicants to establish whether a proposed development is lawful for planning purposes. In this instance it is claimed that the proposed works fall within the definition of the time when development begun.

Section 56 of the Town and Country Planning Act 1990 determines that development of land shall be taken to be initiated when:

- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
- (b) if the development consists of a change in use, at the time when the new use is instituted;
- (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

Section 56, part 4 defines a material operation as:

- (a) any work of construction in the course of the erection of a building;
- (aa) any work of demolition of a building;
- (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
- (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);
- (d) any operation in the course of laying out or constructing a road or part of a road;
- (e) any change in the use of any land which constitutes material development.

ASSESSMENT

Based on the information submitted I am satisfied that the access has been created in accordance with the approved plans and therefore complies with Section 56, Part 4(d) of the Town and Country Planning Act 1990.

	On this basis it is appropriate for a lawful development certificate to be granted.	
8.	Recommendation: Approval of Certificate of Lawfulness	
Case Officer: Sarah Papaleo		Date : 19/05/2021
Authorising Officer: N.J. Hayhurst		Date : 25/05/2021
Dedicated responses to:- N/A		