

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2103/0E1
2.	Proposed Development:	CERTIFICATE OF LAWFULNESS FOLLOWING PLANNING APPROVAL 4/04/2793/0 (BARN CONVERSIONS TO FORM 4 DWELLINGS INCLUDING DEMOLITION OF FARM SHEDS) AS CONFIRMATION THAT THE MEANINGFUL START COMMENCED IN 2009
3.	Location:	LOW LEYS FARM, LAMPLUGH
4.	Parish:	Lamplugh
5.	Constraints:	ASC;Adverts - ASC;Adverts, Listed Building - Listed Building, Coal - Off Coalfield - Data Subject To Change, 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: INTRODUCTION The application site relates to a cluster of buildings at Low Leys Farm, including two dwellings known as Alder Leys and Low Leys and a large agricultural building to the south west. The properties are surrounded by agricultural fields. An access road links the site to Rowrah to	

the south.

PROPOSAL

This application seeks a lawful development certificate to establish that a lawful start was made to application reference 4/04/2793/0 for the conversion of a barn to form 4 dwellings and the demolition of farm sheds.

RELEVANT PLANNING HISTORY

Barn conversion/extension (incorporating ex-granny annexe) to form holiday accommodation, approved in December 2002 (application reference 4/02/1264/0 relates);

Barn conversion to form 4 dwellings including demolition of farm sheds, approved in January 2005 (application reference 4/04/2793/0 relates).

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 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.

There have been no comments received with regards to this 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 development was lawfully begun during the time constraints of the approval notice and therefore the permission would be held in perpetuity.

Section 56 of the TCPA 1990 (as amended) details the circumstances where development has begun i.e. development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

The definition of material operations includes:

- (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,*



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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 legal considerations and evidence put forward by the Applicant, it is considered that the permission has been legally implemented.

Evidence has been received to show that the demolition of the agricultural building applied for and within the description of the application has been undertaken. This would be defined as a material operation under (aa) of Section 56 of the TCPA. A building regulations application was registered with Copeland Borough Council (reference 4/09/0957/1). This was accepted on 20th November 2009.

Furthermore, evidence has been submitted from the Applicant to show an email exchange between the Council's Head of Planning and Place and the Applicant's Agent, reading the following:

“The permission was subject to 3 pre-commencement conditions. Having reviewed the application file it is clear that the requirements of conditions 3 and 4 have been complied with.

Although there is no record of compliance with condition 5 I am satisfied that this condition does not go to the heart of the planning permission.

On this basis I am satisfied that the contents of my letter dated 18/01/2010 are correct and a lawful commencement has occurred. This is sufficient to keep the permission live.”

CONCLUSION

Based on the information submitted I am satisfied that there is sufficient evidence to demonstrate that a lawful start has been made, as defined within Section 56 of the Town and Country Planning Act. On this basis, a Lawful Development Certificate can be issued.

8. **Recommendation:**
Approval of Certificate of Lawfulness

Case Officer: Sarah Papaleo

Date : 05/06/2023

Authorising Officer: N.J. Hayhurst

Date : 06/06/2023

Dedicated responses to:- N/A