

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2157/0E1
2.	Proposed Development:	LAWFUL DEVELOPMENT CERTIFICATE SEEKING CONFIRMATION THAT A MATERIAL COMMENCEMENT HAS BEEN MADE FOLLOWING PLANNING APPROVAL 4/18/2461/0O1 - OUTLINE APPLICATION FOR A SINGLE DWELLING
3.	Location:	BRANDLE HOW, GILGARRAN
4.	Parish:	Distington
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Key Species - Bounds of Sensitive Area for Hen Harriers, Outer Consultation Zone - Cycliffe 3KM
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 This application relates to the land to the north of the dwelling known as Brandle How in Gilgarran. It is currently unused space. The site has residential dwellings to the west, open fields to the south, an access road to the north and residential garden to the east. The land has been subject to an outline approval approved in 2018 (application reference 4/18/2461/0O1 relates) and subsequently the approval of reserved matters was granted in June 2022 (application 4/21/2383/0R1 relates).	

PROPOSAL

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.

The applicants agent has submitted a Statement with the application including photographs which illustrate that the following works which have taken place on the site:-

- The clearance and removal of all scrub from the site
- The installation of ducting for services
- The import of top soil
- Levelling and landscaping works
- The creation of the site entrance
- The marking out of the dwelling on the site. These works were commenced on 07 April 2024.

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.

RELEVANT PLANNING POLICY/ LEGISLATION

Town and Country Planning Act 1990

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Planning Practice Guidance

LEGAL CONSIDERATIONS

Section 191 of the TCP Act 1990 allows amongst other things, an application to be made to



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	<p>confirm that any operations which have been carried out in, on, over or under land are lawful;</p> <p>In this instance it is claimed that the works which have been undertaken fall within the definition of development and are therefore sufficient to constitute a commencement of development.</p> <p>Section 56 of the Town and Country Planning Act 1990 determines that development of land shall be taken to be initiated when:</p> <ul style="list-style-type: none">(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). <p>Section 56, part 4 defines a material operation as:</p> <ul style="list-style-type: none">(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. <p>ASSESSMENT</p> <p>Based on the information submitted the material works which have been undertaken on the site to create an access in accordance with the approved plans constitutes a material operation as set out in Section 56, Part 4(d) of the Town and Country Planning Act 1990.</p> <p>These works were commenced within the timescale specified on the decision notice and the pre commencement conditions have previously been discharged.</p> <p>These works are sufficient to constitute a material commencement of the planning permission approved for the erection of a dwelling on the application site</p> <p>On this basis it is appropriate for a lawful development certificate to be granted.</p>
8.	<p>Recommendation:</p> <p>Approval of Certificate of Lawfulness</p>

Case Officer: Sarah Papaleo	Date : 27/06/2024
Authorising Officer: N.J. Hayhurst	Date : 02/07/2024
Dedicated responses to:- N/A	