

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2362/0E1
2.	Proposed Development:	APPLICATION FOR LAWFUL DEVELOPMENT CERTIFICATE SEEKING CONFIRMATION THAT A LAWFUL START HAS BEEN MADE ON SITE DUE TO THE DEMOLITION OF THE FORMER POW BECK CARE HOME FOLLOWING THE GRANTING OF PLANNING PERMISSION FOR THE REDEVELOPMENT OF THE SITE UNDER REFERENCE 4/21/2189/0F1 AS AMENDED BY 4/22/2326/0B1
3.	Location:	POW BECK HOUSE, MEADOW ROAD, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See Report
7.	Report: Site and Location <p>This application relates to Pow Beck House, a former care home. The site is located within the Mirehouse Estate within the Pow Beck Valley area approximately 1.75 miles to the south of Whitehaven. The former horseshoe shaped building is surrounded by residential properties, and St Andrews Church to the north of the site.</p> Relevant Planning History <p>4/21/2189/0F1 – The demolition of an existing two storey building formally Pow Beck Care Home. The erection of a new care home (use class C2) with associated landscaping comprising of 36 one and two bedroom flats over three storeys – Approved.</p> <p>4/22/2103/DOC – Discharge of conditions 3, 4, 6 and 7 of planning approval 4/21/2189/0F1 –</p>	

Approved.

4/22/2326/0B1 – Variation of condition 5 and 8 (pre commencement conditions) of planning approval 4/21/2189/0F1 – Demolition of an existing two storey building formally Pow Beck Care Home. The erection of a new care home (use class C2) with associated landscaping comprising of 36 one and two bedroom flats over three storeys – Approved.

Proposal

This application seeks a lawful development certificate to confirm that a lawful start has been made at the site due to the demolition of the former Pow Beck Care Home.

The applicant's agent has submitted an application form starting when the demolition was completed, and photos to show that the site has been cleared.

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.

Whitehaven Town Council

No objections.

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



Cumberland Council

confirm that any operations which have been carried out in, on, over or under land are lawful.

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.

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 the material works which have been undertaken on the site to demolish the former Pow Beck Care Home in accordance with the approved plans constitutes a material operation as set out in Section 56, Part 4(aa) of the Town and Country Planning Act 1990.

These works were commenced within the timescale specified on the decision notice and the pre commencement conditions have previously been discharged.

These works are sufficient to constitute a material commencement of the planning permission approved for the erection of a new care home building on the application site.

	On this basis it is appropriate for a lawful development certificate to be granted.	
8.	Recommendation: Approval of Certificate of Lawfulness	
Case Officer: C. Burns		Date : 29.11.2024
Authorising Officer: N.J. Hayhurst		Date : 04.12.2024
Dedicated responses to:- N/A		