

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2040/0E1
2.	<b>Proposed Development:</b>	LAWFUL DEVELOPMENT CERTIFICATE FOR AN EXISTING USE OF LAND FOR USE AS A RESIDENTIAL GARDEN
3.	<b>Location:</b>	LAND AT OXENRIGGS BARN, EGREMONT
4.	<b>Parish:</b>	Haile
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, Outer Consultation Zone - Sellafield 10KM
6.	<b>Publicity Representations &amp;Policy</b>	See Report
7.	<p>Report:</p> <p><b>Site and Location</b></p> <p>The application site comprises a parcel of land, situated to the south west of the dwelling at Oxenriggs Barn, separated by a lane.</p> <p>The site is accessible via an unmade track joining the Egremont to Haile road.</p> <p><b>Proposal</b></p> <p>The application seeks consent for a Certificate of Lawfulness for an existing use of the land as a residential garden.</p> <p><b>Relevant Planning History</b></p> <p>4/24/2232/0F1 – Change of use from bed and breakfast to ancillary domestic accommodation used in association with Oxenriggs Farmhouse (retrospective) - Approve</p> <p>4/24/2296/0F1 – Creation of new access onto classified road and reinstatement/ upgrade of</p>	

track to serve existing farmhouse with associated on site BNG – Approve

### **Relevant Planning Legislation**

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

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

### **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 a proposed development and seeks to establish that the works proposed fall within the definition of Permitted Development. In this instance, the Parish Council were consulted for information and had no objections to the proposals.

### **Assessment**

An application for a Lawful Development Certificate for an existing use or operation or activity has been received. The applicant indicates that the application relates to the regularisation of the existing use of land as garden land ancillary to Oxenriggs Barn, Egremont.

A Statutory Declaration from the applicant has been submitted alongside the application indicating that the land has been used as a residential garden for over 12 years. The accompanying Planning Statement and Statutory Declaration both set out that the land was purchased in 2008 and was used as a garden from 2010. At this point, the land was fenced off to be used for the applicant's children to play in and to grow vegetables. Photographic evidence from 2014 has been provided demonstrating that the fence and children's play equipment was in place at this time. The applicant indicates that the land has been maintained and cultivated as garden land since this date and therefore the land has been used as a garden continuously for over ten years.

Witness Statements have also been provided from a neighbouring farm owner and builder who worked at the site between 2011 and 2014 to corroborate the applicants Statement and Declaration. Photographs of works being undertaken at Oxenriggs Barn with background views of the application land showing caravans, fencing, children's play equipment and football goals in place on the land have been provided alongside the Witness Statements.



## Cumberland Council

	<p>The photographs are dated 2013 and 2014.</p> <p>The key statutory framework for determination of a Certificate of Lawfulness for an existing use of land, operational development, or activity being carried out in breach of a planning condition is set out under section 191 of the Town and Country Planning Act 1990. It is indicated that lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. Section 191(4) states that if the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, they shall issue a certificate to that effect.</p> <p>The Statutory Declaration, Witness Statements and photographs provided with the application support the applicants Planning Statement. No evidence has been brought to the attention of the Local Planning Authority to contradict or otherwise make the applicants version of events less than probable.</p> <p>The time limits for enforcement action are set out within Section 171B of the Town and Country Planning Act 1990. It is set out within this legislation that, '...no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach'.</p> <p>The use of the land for residential purposes without planning permission is a breach of planning control. There is no enforcement notice in place. The details of the application indicate that the breach occurred over 10 years ago and therefore no enforcement action may be taken.</p> <p>The Council have no evidence to dispute the use or the date the breach first occurred. On this basis, the Certificate of Lawfulness for an existing use can be issued.</p>	
8.	<b>Recommendation:</b> Approval of Certificate of Lawfulness	
<b>Case Officer: L. White</b>		<b>Date : 15/04/2025</b>
<b>Authorising Officer: N.J. Hayhurst</b>		<b>Date : 15/04/2025</b>
<b>Dedicated responses to:- N/A</b>		