

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/26/2122/0E1	
2.	<b>Proposed Development:</b>	LAWFUL DEVELOPMENT CERTIFICATE TO CONFIRM THAT A MATERIAL COMMENCEMENT HAS BEEN MADE TO PLANNING PERMISSION 4/25/2124/0B1 - APPLICATION UNDER SECTION 73 TO VARY CONDITIONS 2, 3, 5, 6, 7 & 10 TO REFLECT UPDATED DRAINAGE & HIGHWAY INFORMATION OF PLANNING APPLICATION 4/22/2042/0F1 - USE OF LAND FOR SITING OF FOUR GLAMPING PODS WITH SMALL DECKING AREA, CONSTRUCTION OF PARKING COMPRISING 4 SPACES, FOOTWAYS & ASSOCIATED DRAINAGE & MINOR EARTHWORKS TO REGRADE THE LAND LEVELS	
3.	<b>Location:</b>	5 ELLERBECK BARNS, EGREMONT	
4.	<b>Parish:</b>	Egremont, St. Bees	
5.	<b>Constraints:</b>	ASC Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Off Coalfield - Data Subject To Change, Outer Consultation Zone - Sellafield 10KM	
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter	No
		Site Notice	No
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report

7.

**Report:**

**Site and Location**

This application relates to an area of land that flanks the residential property, known as 5 Ellerbeck Barns. This property forms part of a small group of five barn conversions located off the B534, the main road running south from the residential area of St Bees. The residential property benefits from two large conservatories, a porch, parking areas, and a large area of land surrounding the dwelling.

**Relevant Planning History**

4/12/2280/0F1 – Change of use from residential to bed & breakfast – Approved.

4/18/2204/0F1 – Change of use from bed and breakfast to one private dwelling – Approved.

4/22/2042/0F1 – Use of land for the siting of four glamping pods with small decking areas, construction of parking comprising 4 spaces, footways and associated drainage and minor earth works to regrade the land levels – Approved.

4/25/2016/DOC – Discharge of conditions 3, 5, 6, 7 and 10 of planning application

4/25/2124/0B1 – Application under Section 73 to vary conditions 2, 3, 5, 6, 7 and 10 to reflect updated drainage & highway information of planning application 4/22/2042/0F1 – Use of land for the siting of four glamping pods with small decking areas, construction of parking comprising 4 spaces, footways and associated drainage and minor earth works to regrade the land levels – Approved.

**Proposal**

In April 2023, planning permission was granted for use of the land for the siting of four glamping pods with small decking areas, construction of parking comprising 4 spaces, footways and associated drainage and minor earth works to regrade the land levels. In October 2025, an application under Section 73 was approved to vary conditions 2, 3, 5, 6, 7 and 10 to reflect updated drainage & highway information of planning application 4/22/2042/0F1.

This application seeks a lawful development certificate to confirm that a lawful start has been made at this site for the approved development.

The applicant has submitted an application form and statement of commencement setting out the works undertaken at the site and has provided photos to show the works undertaken and relevant invoices relating to the works.

**Consultation Responses**



## Cumberland Council

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.

### Egremont Town Council

No objections.

### St Bees Parish Council

No objections.

### Public Representation

Two letters of objection have been received from a single objector in relation to this application raising the following comments:

- The original application was granted on the 28<sup>th</sup> March 2023 with the permitted development must be commenced before the 20<sup>th</sup> April 2026 to comply with Section 91 of the Town and Country Planning Act.
- As an original objector and as a neighbouring landowner, I have watched carefully if there was any progress before this date. There has been none.
- Please refuse this application immediately because the only the only reason for the initial application was to enhance the sell on value of 5 Ellerbeck Barns.
- If this isn't done, the appropriate ombudsman may be invited.
- Please identify in detail the date when the applicants meaningful work began on the construction of the 4 pods and exactly what that work was?

### **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

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**

Concerns were originally raised regarding the level of evidence provided by the applicant to evidence that a lawful start has been made at this site. Additional evidence in the form of additional and dated photographs of the works undertaken, invoices of equipment hire, and plans to show the area of removal of topsoil and land levelled were provided.

Section 56, Part 4(d) of the Town and Country Planning Act 1990 states that a 'material operation' means any operation in the course of laying out or constructing a road or part of a road.

The application outlines that the following works have been carried out at this site in relation to the approved access:

- Removal of surface vegetation/topsoil over an expansive area of the proposed access with an excavator and levelling of land. Applicant has indicated on the approved plans



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	<p>the area to which this works relates.</p> <ul style="list-style-type: none"><li>- Installation of a channel drain at the entrance to the site. The installation of such a drain is clearly marked on the approved plans - Road and Access Plan, Scale 1:100, Drawing Number: 210825-01-06.</li></ul> <p>Given the extent of the area removed/worked, and the drain installation which is integral to the approved access, it is reasonable to conclude that works carried out at this site 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 dealt with via the previous S73 approval at this site under reference 4/25/2124/0B1.</p> <p>These works are sufficient to constitute a material commencement of the planning permission approved for use of the land for the siting of four glamping pods with small decking areas, construction of parking comprising 4 spaces, footways and associated drainage and minor earth works to regrade the land levels on the application site.</p> <p>On this basis it is appropriate for a lawful development certificate to be granted.</p>
8.	<p><b>Recommendation:</b> Approval of Certificate of Lawfulness</p>
<b>Case Officer:</b> C. Burns	<b>Date :</b> 08.06.2026
<b>Authorising Officer:</b> N.J. Hayhurst	<b>Date :</b> 12.06.2026
<b>Dedicated responses to:-</b>	