

# **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL**

**Certificate of Lawfulness for proposed building operations under Section 191 of the 1990 Town and Country Planning Act, as substituted by the Planning and Compensation Act 1991 to allow for the completion of works approved under planning application reference 4/07/2665/0.**

## **SUPPORTING STATEMENT**

January 2023

# CONTENTS

- 1 INTRODUCTION
- 2 PLANNING CONSIDERATIONS AN AND WORKS COMPLETED ON SITE

# 1 INTRODUCTION

- a. This application is made for a Certificate of Lawfulness for proposed building operations to allow the completion of works approved under planning application ref. **4/07/2665/0** at **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL**. The application seeks confirmation that the development in the plans contained in Appendix A are permissible as works commenced prior to the expiration planning permission ref. **4/07/2665/0**.
- b. 1.2. The Town and Country Planning Act (TCPA) 1990 as amended by The Planning and Compensation Act 1991 under Section 191(1)(b) states a certificate of lawfulness of existing use or development is relevant if a person wishes to attain whether any operations which have been carried out on land are lawful. 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. The relevant section of TCPA 1990 in relation to the general condition limiting duration of a planning permission is Section 91. In this circumstance the relevant section is 91(1):

*Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—*

*(a) the applicable period, beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or*

*(b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.*

- c. In accordance with the legislation, the purpose of this statement is to expand upon the information provided, namely statutory declarations and supporting evidence which seeks to demonstrate that the granted development has commenced prior to the expiry of the permission and therefore the development as such is, de facto, lawful.

## 2 PLANNING CONSIDERATIONS

A planning application was made to Copeland Borough Council under application reference **4/07/2665/0** at **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** the conversion of Barn to Residential Dwelling. The application was approved on 30th May 2007. Condition 1 stated the "The development hereby permitted shall be commenced within Three years from the date hereof" This allowed for the planning permission to be implemented until 29th February 2011.

As part of the approved planning permission **4/07/2665/0** there was a pre commencement conditions that needed to be discharge before works commenced on the site. Conditions 4, shown below relates to the requirement of a desktop land contamination study to be completed on the site prior to works.

4. No development approved by this permission shall be commenced until a desk study has been undertaken and agreed in writing by the Local Planning Authority to investigate the potential for on-site contamination. If the desk study identifies potential contamination a detailed site investigation should be carried out to establish the degree and nature of the contamination and its potential to pollute the environment or cause harm to human health. If remediation measures are necessary they shall be implemented in accordance with the assessment and to the satisfaction of the Local Planning Authority.

We believe a Phase 1 Ground investigation study was completed in March 2008 to identify if there were any potential for on-site contamination. We believe from the previous owners this was done along side the design drawings for how the site would deal with foul waste and the discharge of surface water and drainage for the **Upper Beckstones Mill, The Green, Millom, LA18 4NZ** planning reference **4/07/2141/0** and the **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** planning reference **4/07/2665/0**. (please refer to support document for lawful development certificate for **(Upper Barn) 1, Beckerside, The Green, Millom LA18 5HL**), **Appendix 4**.

Unfortunately neither to council or the previous owner have a copy of the ground investigate report completed in 2008, we have therefore conducted a new Phase one ground investigate report on both **Upper Beckstones Mill, The Green, Millom, LA18 4NZ** planning reference **4/07/2141/0** and the **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** planning reference **4/07/2665/0**., **Appendix 5**, dated July 2022.

The phase 1 ground investigation reports suggests that the based on a preliminary assessment a number of risks associated with contamination had been identified across the site as a whole, whilst the risks identified were considered low risk the recommendation was to conduct a Phase 2 site and ground investigation report. These identified risks were located on the site of the Upper barn and were not within the location of the **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** planning reference **4/07/2665/0**.

We followed up the initial report by conducting a Phase 2 ground investigation report on both **Upper Beckstones Mill, The Green, Millom, LA18 4NZ** planning reference **4/07/2141/0** and the **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** planning reference **4/07/2665/0**. Dated November 2022 **Appendix 5**.

The conclusion of the phase 2 report identified no ground contamination on any of the proposed development site areas at **Upper Beckstones Mill, The Green, Millom, LA18 4NZ** planning reference **4/07/2141/0** and the **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** planning reference **4/07/2665/0**. The Phase 2 report however did note the only contaminant of concern identified at the site is considered to be low level asbestos (0.001%) in the location of Borehole WS1. Made ground of a similar description was also encountered in Borehole WS2.

It was noted within the report that as there is currently no proposed development plan for the the locations of Boreholes WS1 and WS2 within the final development. If these locations are to be within a garden/landscaped area then a capping system should be implemented to mitigate the risks from asbestos to future residents. **Image 1**



**Image 1 - Location of Boreholes**

No remediation work was required as part of the Phase 2 report however in respect to the locations of boreholes WS1 and WS2 the following mitigation was advised

- To mitigate the potential risks, the following works are recommended:
  - i) Made ground (including topsoil) present in soft landscaped/garden areas within the vicinity of Boreholes WS1 and WS2 will be removed in its entirety (to expose natural strata) or capped with a minimum of 600 mm of clean suitable soil (450 mm subsoil and 150 mm topsoil). Made ground can remain in areas of non-sensitivity i.e. below hardstanding/plots.
  - ii) All ground workers adopts suitable PPE when working on the site and consider the requirements of site specific risk assessments and working method statements.

It should be noted again at this point that there were no contaminations identified on the site of the **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** planning reference **4/07/2665/0**, The need to be dealt with as part of condition 4 of the planning reference 4/07/2665/0, The Phase 1 and 2 ground investigation surveys were completed on both **Upper Beckstones Mill, The Green, Millom, LA18 4NZ** planning reference **4/07/2141/0** and the **(Lower Barn) Mill Farm, The Green, Millom LA18 5HL** planning reference **4/07/2665/0** In order to identify if there were any land contamination issues on both sites which are to be developed.

Along with the information sent for the discharge of condition 4 planning reference **4/07/2665/0** internal works were also carried out on the property in late 2010 and inspected by building control in early 2011.

In 2010 following the works completed to create the new shared access to addresses **Upper Beckstones Mill, The Green, Millom, LA18 4NZ** and our two address **(Upper Barn) 1, Beckerside, The Green, Millom LA18 5HL** and also **(Lower barn Barn) Mill farm, The Green, Millom LA18 5HL**, planning reference **4/07/2665/0**, (please refer to support document for lawful development certificate for **(Upper Barn) 1, Beckerside, The Green, Millom LA18 5HL**), **Appendix 4**, Internal work then started on **(Lower barn Barn) Mill farm, The Green, Millom LA18 5HL**, planning reference **4/07/2665/0**.

In late 2010 the the following works were completed on the property. Foundation work were completed on the building, a temporary concrete pad was poured and structural supports were put in to support the first floor of the building **Image 2**.

The Lower barn also had the roof tiles removed some of the damaged king posts trusses were replaced, new roof joists were fitted, the roof was then re battened and a new membrane was installed before the roof was re tiled to make the building water tight, this can be seen in **images 2**.

In 2011 an application to building control was made for the Lower barn under reference 4/08/0498/4, building control inspected the foundations on the 14th February prior to the expiration of planning reference **4/07/2665/0**, **Appendix C**



**Image 2 - Works completed at Lower barn prior to expiration of planning**

*Conclusion*

- a. National Planning Practice Guidance (reference Paragraph: 007 Reference ID: 17c-007- 20140306) indicates that if a local planning authority has no evidence itself, nor any from other third parties, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous.
- b. In this case, associated evidence provided by the applicant demonstrates that the land and building identified within the red edged plan in the Location Plan has been subject to work following the permission granted prior to the expiry 3-year as per condition 1 of the Decision Notice.
- c. In this case, the information provided in this submission gives clear evidence of planning permission **4/07/2665/0** being implemented lawfully prior to its expiration. It is considered that the evidence provided is sufficiently precise and unambiguous to justify the grant of a certificate. Accordingly, it is clear that the applicant would be entitled to a certificate to this effect.
- d. If you require any further information or clarifications with regards to this application, please do not hesitate to contact me.

**APPENDIX A: APPROVED DRAWINGS**

# **APPENDIX B: DECISION NOTICE**

# APPENDIX C: EMAIL FROM BUILDING CONTROL

**From:** Sally Huddart [REDACTED]  
**Subject:** RE: Mill Farm, Upper and Low Barn, The Green  
**Date:** 17 November 2021 at 10:39  
**To:** Anthony Wilmott anthony@awtdevelopment.co.uk



Good Morning Anthony

I have looked into both properties as request:

Application number 4/08/0498/4 – Upper Barn has had two foundation inspection carried out on the 01.07.2008 and 14.02.2011.

Application number 4/08/0543/4 – Lower Barn has had one foundation inspection carried out on the 14.02.2011.

These applications were made under the planning reference 4/07/2665/0

Hope this helps

Kindest regards

Sally Huddart  
Technical Officer  
Building Control  
Copeland Borough Council  
01946 598409  
[REDACTED]

**Mental Health Champion. Get in touch if you need to talk.....**



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# **APPENDIX C: PHASE 1 GROUND INVESTIGATION REPORT**

# **APPENDIX D: PHASE 2 GROUND INVESTIGATION REPORT**