

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/26/2266/0E1	
2.	Proposed Development:	LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING SINGLE DWELLING	
3.	Location:	LAKELAND VIEW, CHAUCER AVENUE, EGREMONT	
4.	Parish:	Egremont	
5.	Constraints:	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, PROWs - Public Right of Way, Main River Consultation Area - Main River Consultation Area	
6.	Publicity Representations &Policy	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 land adjacent to Smithfield Road, which currently sites the property known as Lakeland View, within the north east of Egremont. The site lies adjacent to James	

Park Homes, and is accessed via Smithfield Road.

Relevant Planning History

4/11/2026/0O1 – Outline application for erection for 4 detached dwellings (3no. three bedroomed & 1no. two bedroomed) – Withdrawn.

4/11/2516/0O1 – Outline application for a detached dwelling – Resubmission of 4/11/2026/0O1 – Approved in Outline.

4/14/2467/0O1 – Outline application for renewal of approval for one detached dwelling, including minor amendments to garden – Approved in Outline.

4/15/2441/0F1 – Erection of one x 5 bedroomed detached dwelling house – Approved.

4/26/2075/0F1 – Retrospective planning permission for erection of a five bedroomed detached dwelling following planning approval 4/15/2441/0F1 – Outstanding.

Proposal

This application seeks a lawful development certificate for the siting for an existing single residential dwelling.

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.

Egremont 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



Cumberland Council

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; any existing use of buildings or other land is lawful; and any other matters constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful.

Within this Act uses and operations are lawful at any time if:

- a) No enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

The Act also states that any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if:

- a) the time for taking enforcement action in respect of the failure has then expired; and
- b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

In determining whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if:

- a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,
- b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or
- c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

Assessment

A lawful development certificate enables applicants to establish whether an existing development is lawful for planning purposes. In this instance it is claimed that both the operational development comprising the erection of the dwelling and use of the property as a single dwelling house are both lawful and immune from enforcement action by virtue of the passage of time.

The following evidence has been submitted to support this lawful development certificate:

- Application Form, received by the Local Planning Authority on the 21st August 2026.

- Planning Statement, received by the Local Planning Authority on the 21st August 2026.

In May 2016, planning permission (ref: 4/15/2441/0F1) was granted at this site for the erection of one five bedroomed detached dwelling house. This permission was granted subject to several planning conditions.

The approved dwelling has been erected and occupied without discharging the following pre commencement conditions: submission of a swept diagram shown turning provision within the site, submission of a scheme to deal with the risks associated with contamination, submission of a verification report, and submission of full boundary treatments along the north east side of the dwelling. The development has also not been carried out in accordance with the plans approved under this original planning permission (ref: 4/15/2441/0F1).

Within the submitted Planning Statement, the following is confirmed:

- Works began on site on the 7th November 2016 before the pre commencement conditions had been discharged.
- The dwelling as constructed departs from the drawings approved under permission 4/15/2441/0F1.
- The dwelling was complete and ready for occupation in 2019.
- The dwelling was occupied by the applicants in January 2020, evidenced by Council Tax adjustment notice and other bills.

Section 171B of the 1990 TCP Act sets out the statutory time limits within which a Local Planning Authority may take enforcement action in respect of a breach of planning control. Until 25 April 2024, sub-sections (1) and (2) provided that no enforcement action could be taken in respect of: (a) operational development (the carrying out of building, engineering, mining or other operations), after the end of the period of four years beginning with the date on which the operations were substantially completed; and (b) a change of use of any building to use as a single dwellinghouse, after the end of the period of four years beginning with the date of the breach.

Section 115 of the Levelling-up and Regeneration Act 2023 extended both of these time limits from four years to ten years, with effect from 25 April 2024 (by virtue of the Levelling up and Regeneration Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2024). Section 115 has a transitional provision which preserves the old 4-year limits for developments or changes of use that were substantially completed before 25 April 2024

The submitted Planning Statement also states that as both the substantial completion of the dwelling and the change of use of the site for use as a single dwellinghouse occurred before the 25th April 2024, the four-year (rather than the ten-year) time limit applies in this case.

Advice has been sought from the Council's Legal Team regarding the timescales for enforcement action. The Legal Officer has confirmed that from the evidence submitted with the application, the breach and change of use appear to have both been in place for 4 years



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	at the point of the 25th April 2024. Accordingly, and in line with regulation 5 of the Planning Act 2008 (Commencement No 8) and Levelling-up and Regeneration Act 2023 (Commencement No 4 and Transitional Provisions) Regulations 2024 provides that the amendments made by Section 115 do not apply where operational development was substantially completed, or a change of use to a single dwellinghouse occurred, before 25 April 2024. This ensures that the new enforcement time limits do not affect breaches that occurred prior to the commencement date of the amendments. Therefore, the new time limits of 10 years would not apply in this case. The Officer therefore advises that if the Local Planning Authority are satisfied that the 4-year time limit has been reached, then enforcement action cannot be taken. On the basis of this Legal advice, and on the evidence submitted, it is reasonable to conclude that, on the balance of probability and based on the facts of the case and the relevant planning law, the operational development comprising the erection of the dwelling and use of the property as a single dwelling house is lawful. 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 : 12.10.2026
Authorising Officer: N.J. Hayhurst		Date : 16/10/2026
Dedicated responses to:-		