CUMBERLAND COUNCIL
DELEGATED PLANNING DECISION

1.	**Reference No:**	4/26/2290/0E1
2.	**Proposed Development:**	LAWFUL DEVELOPMENT CERTIFICATE TO CONFIRM THAT A MATERIAL COMMENCEMENT HAS BEEN MADE TO PLANNING PERMISSION REFERENCE 4/26/2057/0B1 IN RELATION TO PLOT 4 ONLY - VARIATION OF CONDITION 2 (PLANS) TO AMEND PREVIOUSLY APPROVED PLANS FOR PLOT 4 OF PLANNING APPLICATION 4/24/2318/0B1 RESIDENTIAL DEVELOPMENT OF 8 DWELLINGS & ASSOCIATED INFRASTRUCTURE
3.	**Location:**	LAND AT NORTH LANE, HAVERIGG
4.	**Parish:**	Millom
5.	**Constraints:**	ASC Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads, PROWs - Public Right of Way, Main River Consultation Area - Main River Consultation Area
6.	**Publicity Representations &Policy**	Neighbour Notification Letter: No Site Notice: Yes Press Notice: No Consultation Responses: See Report

		Relevant Policies	See Report

7. **Report:**

Site and Location

This application relates to land located along North Lane, to the north west of Haverigg. The application site is bounded to the north by North Lane, to the east by existing residential dwellings and to the south and west by open countryside.

The greenfield site is relatively flat in nature and was previously used as agricultural land. Due to the existing use the site benefits from existing established access onto North Lane.

Relevant Planning History

4/22/2279/0F1 – Hybrid application for full planning permission for one dwelling (plot 1) and outline planning permission with all matters reserved for up to seven – Withdrawn.

4/23/2082/0F1 – Residential development consisting of 8 dwellings and associated infrastructure – Approved.

4/24/2201/0B1 – Variation of condition 2 (plans – addition of external flue pipe to serve wood burning stove) and condition 18 (approved materials – amend boundary treatments & paving) for plot 5 of planning application 4/23/2082/0F1 residential development consisting of 8 dwellings & associated infrastructure – Withdrawn.

4/24/2318/0B1 – Variation of conditions 2, 3, 4, 5, 6, 7, and 18 (plot 5 only) planning application 4/23/2082/0F1 – residential development consisting of 8 dwellings & associated infrastructure – Approved.

4/26/2057/0B1 – Variation of condition 2 (plans) to amend previously approved plans for plot 4 of planning application 4/24/2318/0B1 residential development of 8 dwellings & associated infrastructure – Approved.

4/26/22162/0B1 – Variation of condition 2 (plans) to amend previously approved plans for plot 3 of planning application 4/24/2318/0B1 – Approved.

Proposal

In October 2023, planning permission (ref: 4/23/2082/0F1) was granted for a residential development consisting of 8 dwelling and associated infrastructure at this site.

In January 2025, permission was granted (ref: 4/24/2318/0B1) to vary conditions 2, 3, 4, 5, 6, 7, and 18 (plot 5 only) of this original planning application.

In April 2026, planning permission was granted (ref: 4/26/2057/0B1) to vary condition 2 to vary the approved plans for plot 4 of this approved scheme.

This application seeks a lawful development certificate to confirm that a lawful start has been made in relation to plot 4 only at this site.

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

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.

Millom Town Council

No objections in principle to this application.

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

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 for plot 4:

- The excavation of a drainage trench adjacent to the approved Plot 4 access and North Lane frontage;
- The installation of a perforated surface-water drainage pipe within a stone-filled drainage channel, undertaken on 4 September 2026 to intercept and manage surface water at the access;
- The excavation and preparation of the approved driveway and access; and
- The laying and compaction of the stone sub-base forming the driveway and access, completed on 11 September 2026.

Given the extent of the area removed/worked, and the drain installation 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.

These works were commenced within the timescale specified on the decision notice and the pre commencement conditions have dealt with via the S73 approval at this site. Evidence has

	also been provided regarding compliance with these conditions for plot 4. These works are sufficient to constitute a material commencement of the planning permission approved for plot 4 at this 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 :** 11.11.2026
Authorising Officer: N.J. Hayhurst	**Date :** 12/11/2026
Dedicated responses to:-	