

Development Management – Delegated Officer Report

Application Number: AWDM/0300/26 **Recommendation:** – APPROVE

Site: **55 Wallace Avenue Worthing West Sussex BN11 5QD**

Proposal: **Application for a Certificate of Lawfulness for confirmation that the planning permission AWDM/1910/22 commenced prior to the 3-year expiry in accordance with Condition 2 by the demolition of the existing rear conservatory**

Date of Site Visit: N/A

Neighbours Checked: Y

Additional Neighbours Notified: N

Background

The site relates to a two-storey detached dwelling located on the west side of Wallace Avenue. The property is not listed or locally listed or within a conservation area.

Planning permission was granted on 28.03.2023 under AWDM/1910/22 for the: 'Demolition of the conservatory and erection of a 2-storey rear (infill) extension and an additional window in the first-floor South elevation'. Condition 2 of the planning permission required the development the subject of the planning permission to be begun before the expiration of 3 years from the date of the permission i.e. 28.03.2026.

Proposal

The current application for a Certificate of Lawfulness seeks confirmation that the development was commenced before 28.03.2026 by the demolition of the pre-existing conservatory.

Relevant Planning History:

AWDM/1910/22 - Proposed demolition of existing conservatory with a two-storey rear (West) infill extension and one additional window to the first floor South elevation.

STATUS: Application Permitted 28th March 2023.

Consultations: None undertaken

Representations: The neighbours on either side were notified of the current application and no representations have been received.

Relevant Planning Legislation:

S.56 of the Town and Country Planning Act (As Amended).

Planning Assessment:

The relevant considerations are matters of fact and degree. The planning merits of the development are not relevant in the determination of this application.

The main issue is whether the demolition of the conservatory is sufficient for development to be taken to have commenced under Section 56 of the Act as amended, and whether any development which was so initiated was done so in the context of the planning permission granted.

S.56, sub-sections 2-4, deal with the commencement of development (*"Time when development begun"*). Section 56(1) states that the development of land consisting of the carrying out of operations shall be taken to be initiated *"at the time when those operations are begun"*. Section 56(2) explains that *"development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out."*

The meaning of *"material operation"* is set out in section 56(4) 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 trench as is mentioned in paragraph (b); (d) any operation in the course of laying out or construction a road or part of a road: (e) any change in the use of any land which constitutes material development."

NPPG clearly sets out that the onus of proof in a LDC application rests with the Applicant. The Courts have held that the relevant test applied to the evidence is *"the balance of probability"*. Also, that the Applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the LPA has no evidence of its own, or from others, to contradict or otherwise make the Applicant's version of events less than probable, there is no good reason to refuse an application provided the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a Certificate *"on the balance of probability"*.

In this case, the evidence consists of a time-stamped photograph showing that the pre-existing conservatory had been demolished in its entirety at 17.32hrs on 12th March 2026.

The permitted 2-storey rear infill extension is not sited in the same position on the rear elevation as the former conservatory, but the approved drawings show that the removal of the latter is required in connection with the associated approved elevation alterations, namely the blocking up of existing door/window openings and formation of new door/window openings. The description of the planning permission granted encompasses the demolition of the conservatory and these works are necessary to implement the development scheme shown on the approved drawings. It can reasonably be concluded therefore that the demolition of the conservatory has been undertaken in the context of the planning permission granted by AWDM/1910/22.

The Council is satisfied on the balance of probability that at the demolition of the pre-existing conservatory is sufficient to confirm commencement of the planning permission AWDM/1910/22 within the specified time. In consequence, the planning permission AWDM/1910/22 remains extant enabling the permitted development to be carried out and completed in full.

Recommendation:

ISSUE CERTIFICATE OF LAWFULNESS

The submitted evidence relating to the demolition of the conservatory is sufficiently precise and unambiguous to satisfy the Council that the development the subject of the planning permission AWDM/1910/22 has been commenced within the relevant 3 year time period in accordance with Condition 2 of that permission.

Is recommendation contrary to letter(s) of representation? N

Case Officer: Jo Morin Date: 20.04.2026

Authorised by: Peter Barnett Date: 21 April 2026