Planning Statement

Application for a Certificate of Lawfulness (Existing Development) under Section 191 of the Town and Country Planning Act 1990 to confirm that material operations have commenced on site in accordance with Planning Permission AWDM/0918/22

The Atrium
3 The Causeway
Worthing
West Sussex

On Behalf of

TCW Development Ltd

Prepared by

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01798 877555

July 2025

1. INTRODUCTION

1.1 This statement supports an application under Section 191 of the Town and Country Planning Act 1990 (as amended) to confirm that planning permission AWDM/0918/22 has been lawfully commenced and remains extant and capable of completion.

1.2 The evidence presented demonstrates that material operations, including the removal of existing windows, the partial installation of replacements and drainage operations, were undertaken in accordance with the approved plans, within the three-year statutory period for commencement.

1.3 Planning permission AWDM/0918/22 was granted by Adur and Worthing Borough Council on 17 October 2022 and is due to expire on 17 October 2025 unless lawfully commenced before that date.

1.4 The permission relates to:

Elevational changes to the Atrium in association with a previously consented prior approval for the change of use of the building from offices to residential apartments (Ref: NOTICE/0007/20).

1.5 Importantly, the permission was not subject to any pre-commencement conditions requiring discharge prior to the initiation of development.

2. RELEVANT LEGISLATION

2.1 Section 56(1) of the Town and Country Planning Act 1990 states that "…for the purposes of this Act, development of land shall be taken to be initiated

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)".

2.2 Section 56(2) continues that "for the purposes of the provisions of this Part mentioned in subsection (3) 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".

2.3 Section 56(4) outlines that "material operation" means:

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, or a building or to any such trench as is mentioned in paragraph (b);
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.

2.4 In addition, case law has clarified that:

- Works must be referable to and in accordance with the approved plans (*Whitley & Sons v SoS for Wales* [1992]),
- The operation must be more than de minimis, i.e., not trivial (*Malvern Hills DC v SSCLG* [2015]).

3. DETAILS OF WORKS CARRIED OUT

3.1 Case law has established a number of tests concerning commencement of development. This includes quantum of works carried out and whether or not this is de minimis. In Malvern Hills DC v SSE (1983) it was concluded that it is not the 'quantum' of the work that is undertaken, but whether the work relates to the planning permission involved.

3.2 The planning permission granted under reference AWDM/0918/22, dated 17 October 2022, approved various elevational alterations to The Atrium, including:

i) Existing windows to be replaced with anthracite slimline aluminium frames (Part L compliant);
ii) Entrances and lobbies to be re-cladded to reduce the amount of glazing in order to improve privacy (this is commonplace with office to residential conversions);
iii) The atrium will be re-cladded with light reflective panels and new full-height glazing;
iv) The existing roof is to be insulated in accordance with buildings regulations which will raise the parapet, and a balustrade will be installed for health and safety reasons; and
v) New lightwells added to rear of the building.

3.3 In accordance with this permission, the following building operations have been undertaken:

- Removal of all existing windows on the south and west elevations;
- Installation of some replacement windows in accordance with approved drawing no. 2131/210;
- Structural alterations undertaken to window reveals in preparation for installation;
- Installation of drainage infrastructure connected with parapet and roof insulation works.

3.4 These works were carried out on site within three years of the date of permission and are clearly referable to the permission granted. The operations are not de minimis and meet the definition of "building operations" under Section 56(4) of the Town and Country Planning Act 1990.

3.5 In particular, the removal of existing windows forms part of the physical execution of the permission. As confirmed in *Whitley & Sons v SoS for Wales [1992*] and *Malvern Hills DC v SSCLG [2015],* works do not have to be substantial in volume to amount to lawful commencement, provided they are in accordance with the permission and not trivial. This is further supported by *R (North Wiltshire DC) v SoS [1993*], where the removal of roof tiles was held to constitute commencement.

3.6 Therefore, it is considered that the above works constitute a material operation, and that the permission has been lawfully implemented. Evidence supporting this is provided below.

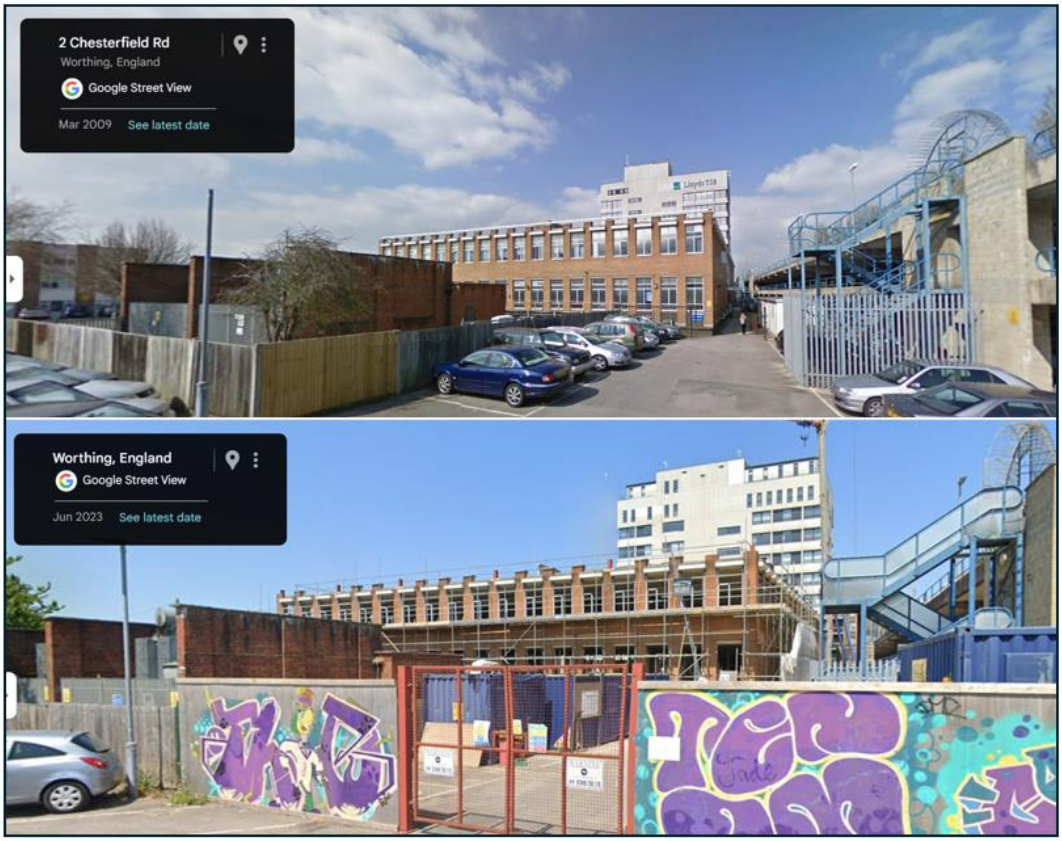
Windows

3.7 The windows on all elevations have been removed and partially replaced in accordance with the approved plans (drawing no. 2131/210). This forms part of the building operations noted above in 3.2 (i) and forms part of the approved scheme. This should not be considered as site clearance.

3.8 The following google maps street view images compare pre-development imagery with evidence of operational development on the southern and western elevations.

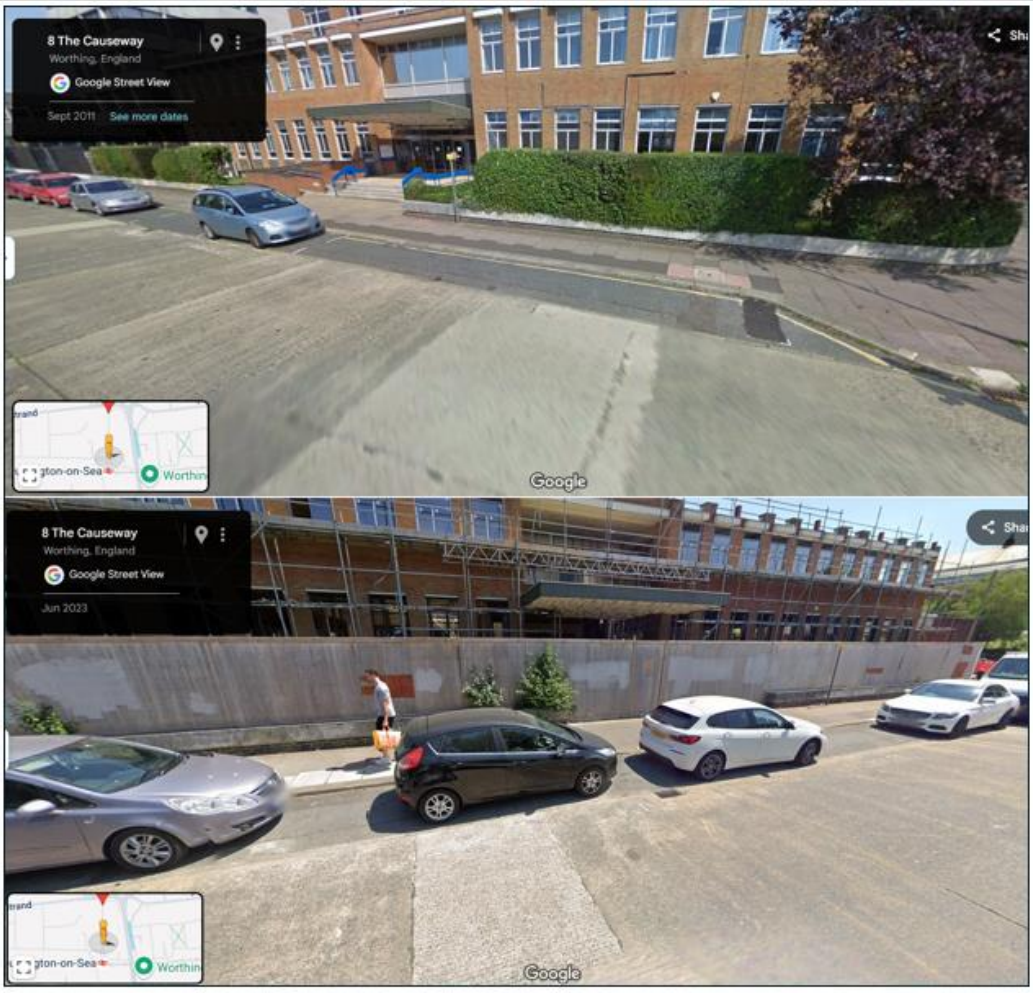
3.9 Figure 3.1 shows two images of the southern elevation. The upper image was taken when the building was previously used as an office in March 2009. The second image was taken in June 2023 when the windows were removed. Scaffolding was installed and all original frames removed. Structural works have been undertaken for the installation of the approved windows.

Figure 3.1 – Google Earth street view images of the south elevation



3.10 Figure 3.2 shows two images of the western elevation. The upper image shows the building in September 2009 with the building in use as an office. The lower image shows building operations underway in June 2023, with all windows removed and structural works undertaken for the approved windows.

Figure 3.2 – Google Earth street view images of the west elevation



3.11 These works were undertaken on site in direct accordance with the approved plans [2131/210] and clearly constitute part of the building operations that were granted planning permission, within the 3-year commencement period.

3.12 Under Section 55(1A) of the Town and Country Planning Act 1990, "building operations" include:

"(a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings..."

3.13 Section 56(4)(a) clarifies that a material operation includes any building operation "in the course of the erection of a building or of any works for the alteration of a building".

3.14 Window removal, as a precursor to approved window alterations or replacements, constitutes a structural alteration or part-demolition in this context.

3.15 Taking into account key precedents and practice, *Whitley & Sons v SoS for Wales [1992]* found that Development must be in accordance with the permission. Even a small act, if part of the permitted works, can trigger commencement.

3.16 In *Malvern Hills DC v SSCLG [2015]* it was reiterated that non-trivial works forming part of the approved development constitute lawful commencement.

3.17 In *R (North Wiltshire DC) v SoS for the Environment [1993]* it was found that removal of roofing tiles as part of a re-roofing approval was a sufficient building operation.

3.18 By analogy, removing windows (especially as a clear and necessary step toward their approved replacement) meets this threshold. The window removal is a direct and deliberate part of the approved building operations — it cannot be considered as general site clearance or preparatory.

Drainage Operatives

3.19 In terms of other building works a parapet is proposed to be raised which creates a concealed roof edge. Drainage works are required to prevent water pooling, overflows, and structural damage to support the approved elevational changes, which includes the raising of the parapet wall. The following documents are submitted in support which confirm the above:

Appendix A – Surveyor's Inspection Report (Garry Goacher, JM Partnership, September 2022) confirming start of works

Appendix B – Building Control Notice1st February 2022

Appendix C - Email from appointed Building Control Surveyor (4th June 2025)

3.20 The building works undertaken are noted below.

3.21 The existing slab has been opened and 110mm and 150mm diameter UPVC drains have been laid. These have been assessed by the appointed Building Control Engineer (Garry Goacher, JMP Partnership) who concluded that they have been installed with good line and falls (**Appendix A**). The report also confirms that ground floor connections have been installed and knuckle bends have been adopted. Easy bends have been installed for Soil Vent Pipes rising up to the upper floors.

3.22 The drains have been air tested before backfilling and have been tested in the presence of the building control engineer (**Appendix A**). These drainage works were required as a direct and deliberate part of the approved building operations concerning the parapet and have a clear functional and consequential relationship with the approved elevations.

3.23 The appointed building surveyor has confirmed that a meaningful start has been achieved under the Building Regulations on this development within an email to the appointed Architect, GBP (**Appendix C**).

3.24 The building works undertaken are considered to be furtherance of the approved scheme. The works undertaken thus far are not trivial and are clearly referable to the permission granted under AWDM/0918/22.

3.25 These works are therefore confirmed to constitute a material operation under Section 56(2) of the Town and Country Planning Act 1990 and are an integral and necessary part of implementing the planning permission and therefore constitute a material operation under Section 56(4) of the Act.

3.26 Therefore, it would constitute a material start to development, meaning the permission has been implemented and remains extant.

4. CONCLUSION

4.1 Based on the evidence provided and the works undertaken, it is considered that there has been a meaningful start to the development permitted under reference AWDM/0918/22. We respectfully request that the Local Planning Authority confirms that the permission has been preserved and a Certificate of Lawfulness be issued.

APPENDICES

Appendix A – Surveyor's Inspection Report (Garry Goacher, JM Partnership, September 2022) confirming start of works

JM PARTNERSHIP
(SURVEYORS) LTD

[redacted]

Garry Goacher MRICS
The J M Partnership (Surveyors) Ltd

THE CAUSEWAY, WORTHING, WEST SUSSEX, BN12 6BT

LSR/22/27886

Thursday, 29 September 2022

Site Contact Causeway Worthing Ltd.

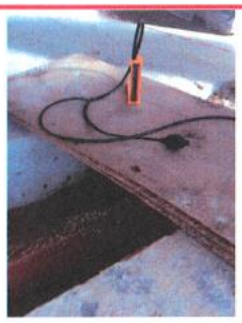
3 Identified



ITEM INSPECTED 1

Ray

A progress inspection was undertaken accompanied by the contractors drainage operatives.
The existing slab has been opened and 110mm and 150mm dia. UPVC drains laid with good line and falls. Access will be provided via rodding eyes above the slab and on the main runs hung within the basement which are yet to be placed.
Where ground floor connections are provided knuckle bends have been adopted but easy radius bends are provided for SVPs rising up to upper floors.



ITEM INSPECTED 2

Ray

Drains were air tested before backfilling and one was tested at random in my presence and held 100mm pressure for 3 minutes.



ITEM INSPECTED 3

Ray

Final quarter of system to be installed and photo recorded.
We discussed:
Location and type of bends plus soft pack for movement at the drop to the basement.
Dowels and Slab reinforcement for trench repairs.
Pea gravel surround to pipes.
External Manhole and connection to the existing main.

JMP will return to site in 4 weeks or to see basement drainage.

This report is restricted to the requirements covered by the Building Regulations current at this time. It does not constitute evidence that the Building Regulations have been complied with until a final certificate has been issued and it remains the responsibility of the person carrying out the work to ensure that the work complies.

Appendix B – Building Control Notice1st February 2022

Section 47 of the Building Act 1984 ("the Act")
(Approved Inspectors etc) Regulations 2010 ("The 2010 Regulations")

Initial Notice

JMP Ref: LSR/22/027886

JM PARTNERSHIP
(SURVEYORS) LTD

	For the attention of the Chief Building Control Officer Adur & Worthing Building Control Partnership Building Control Portland House Richmond Road Worthing West Sussex BN11 1LF
1	**This notice relates to the following work** Description of works: - CHANGE OF USE FROM OFFICES TO FORM 48 NO. RESIDENTIAL UNITS COMPRISING 11 NO. STUDIOS, 33 NO. ONE BEDROOM AND 4 NO. TWO BEDROOM FLATS AT Address: - NHS WEST SUSSEX, THE CAUSEWAY, WORTHING, WEST SUSSEX, BN12 6BT
2	The Approved Inspector in relation to the work is: - **JM Partnership Surveyors Ltd** Suite 3, Peach Business Centre, 8 Chestnut Avenue, Walderslade, Chatham, Kent ME5 9AJ Tel No: 01634 733270 Email: admin@jmpartnership.uk.com
3	**Person intending to carry out the work (i.e. the Building Owner)** Name: - Causeway Worthing Ltd Address / Tel No: - 1 The Causeway, Goring-by-sea, BN12 6BT tel 07739360981
4	The work does / ~~does not~~ concern a new dwelling (a new dwelling includes a dwelling that is formed by a material change of use of a building within the meaning of regulation 5(a)(b) or (g) of the Building Regulations 2010)
5	With this notice are the following documents, which are those relevant to the work described in this notice: - a) in the case of the erection or extension of a building, a plan to scale of not less than 1:1250 showing the boundaries and location of the site and where the work includes the construction of a new drain or private sewer a statement- i. as ~~to the approximate location of any proposed connection to be made to a sewer,~~ ☐ ~~or~~..... ii. if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool; ☐ ..... b) in the case of a new dwelling – (i) a statement whether or not one or more, and if so which, of the following optional requirements in the Building Regulations 2010 applies to the building work- ~~(aa) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day~~ ☐ ~~(bb) Schedule 1 Part M optional requirement M4(2) (category 2 – accessible and adaptable dwellings)~~ ☐ ~~(cc) Schedule 1 Part M optional requirement M4(3) (category 3 – wheelchair user dwellings)~~ ☐ ii. a statement that planning permission has not yet been granted for the work, and that the information required by sub paragraph (b)(i) will be supplied as soon as it is reasonably practicable after that permission is granted ☐ c) a statement of any local enactment relevant to the work, and of the steps to be taken to comply with it. ☐
6	The work ~~is~~ / is not minor work (regulation 9(5) of the 2010 Regulations) **Continued on page 2**

7	**JM PARTNERSHIP (SURVEYORS) LTD** declare that we do not, and will not while this notice is in force, have any financial or professional interest in the work described (regulation 9(5) of the 2010 Regulations)
8	**JM PARTNERSHIP (SURVEYORS) LTD** will / ~~will not~~ be obliged to consult the fire authority by Regulation 12 of the 2010 Regulations.
9	**JM PARTNERSHIP (SURVEYORS) LTD** undertake to consult the fire and rescue authority before giving a plans certificate in accordance with section 50 of the Act or a final certificate in accordance with Section 51 of the Act in respect of any work described above.
10	**JM PARTNERSHIP (SURVEYORS) LTD** will / ~~will not~~ (11) be obliged to consult the sewerage undertaker by Regulation 13 of the 2010 Regulations.
11	**JM PARTNERSHIP (SURVEYORS) LTD** undertake to consult the sewerage undertaker before giving a plans certificate in accordance with Section 50 of the Act or a final certificate in accordance with Section 51 of the Act in respect of any of the work described above.
12	**JM PARTNERSHIP (SURVEYORS) LTD** are aware of the obligations laid upon us by Part II of the Act and Regulation 8 of the 2010 Regulations.
13	**JM PARTNERSHIP (SURVEYORS) LTD** are the Approved Inspector for the purposes of Part 2 of the Act and the above work is (the whole / ~~part~~) of the work described in this initial notice given by me and dated: 01 Feb 2022
14	Copies of the notice of approval and of a declaration of insurance relevant to the work described in this notice are on the register kept by the body designated (Construction Industry Council) under Regulation 3 of the 2010 Regulations
	Signed: [redacted] on behalf of JM Partnership (Surveyors) Ltd Print Name: Andrew Wilkinson Date: 01 Feb 2022
	Signed: [redacted] Person intending to carry out the work Print Name: Garry Goacher - JM Partnership (Surveyors) Ltd On behalf of Causeway Worthing Ltd Date: 01 Feb 2022

RICS

JM PARTNERSHIP (SURVEYORS) LTD

JM Partnership (Surveyors) Ltd
Suite 3, Peach Business Centre, 8 Chestnut Avenue, Walderslade, Chatham, Kent ME5 9AJ

Appendix C – Email from appointed Building Control Surveyor

Partner | ARB | RIBA
T: 020 8614 4374
W: gbparchitects.co.uk
Insta: gbparchitects



GBP Architects LLP is a trading style of: Geoff Beardsley & Partners (UK) LLP (Registered Number OC344350)
Registered in England & Wales. Registered Office: 6th Floor, 2 London Wall Place, London EC2Y 5AU

From: Garry Goacher <[redacted]
Sent: 04 June 2025 12:14
To: Gaston Verdicchio <[redacted]
Subject: RE: The Causeway- Worthing Meaning ful start - approved planning application for changes to elevations

Good afternoon Gaston

Thank you for your email. I can confirm that a meaningful start has been achieved under the Building Regulations on this development however I am not able to confirm whether this could be relied upon for Planning purposes in the particular circumstances that you have outlined. Sorry but it is not within my expertise.

Kind regards
Garry

Garry Goacher MRICS
Senior Project Manager

M +44 (0) 7881823212
T +44 (0) 1903 236168

My working days are: Monday – Wednesday

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