

Development Management – Delegated Officer Report

Application Number: AWDM/0519/26

Recommendation: – APPROVE

Site: Land South Of 108 To 126 Gordon Road, Shoreham-by-sea

Proposal: Application for a Certificate of Lawfulness for confirmation that the planning permission AWDM/2128/21 commenced prior to the 3-year expiry in accordance with Condition 1 by the laying out and construction of part of an access road, relating to development of 53 single storey Class B8 self storage units totalling 636 sqm with associated turning facilities.

Date of Site Visit: N/A

Neighbours Checked: Y

Additional Neighbours Notified: N

Background

The application relates to the eastern section of a small parcel of overgrown land adjacent to a class B8 self-storage centre known as 'Boxx Storage'. The site is located between a tree-lined railway line and the residential dwellings found on Gordon Road near to the junction with Eastern Avenue.

Planning permission was granted on appeal on 04.04.2023 under AWDM/2128/21 for the: '*Development of 53 single storey Class B8 self storage units totalling 636 sqm with associated turning facilities.*' Condition 1 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. 04.04.2026.

Proposal

The current application for a Certificate of Lawfulness seeks confirmation that the development was commenced before 04.04.2026 by way of the commencement of the laying out and construction of part of an access road into the development.

Relevant Planning History:

AWDM/2128/21- Proposed 53no. single storey Class B8 self storage units totalling 636 sqm with associated turning facilities (on land to west of 1-3 Eastern Road).

STATUS: Application Refused 7th June 2022. Appeal Allowed 4th April 2023.

AWDM/1555/25- Approval of Details Reserved by conditions 8 (Construction Management Plan), 9 (access road surface materials) and 13 (acoustic fence) of Application AWDM/2128/21, allowed on Appeal ref APP/Y3805/W/22/3312319.

STATUS: Approved 19th January 2026

Consultations: None undertaken

Representations: No neighbour notification carried out

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 laying out and construction of part of an access road 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:-

1. Supporting letter from Danny Simmonds, Planning Director of Tetra Tech (Planning Agent)
2. Confirmation that the acoustic fence works required by Condition 13 of the planning permission AWDM/2128/21 commenced on 16 March 2026 and were completed on 26 March 2026. An email dated 19 March 2026 shows a

photograph at the beginning of these works, whilst an email of 2 April shows a photograph of the completed fence in place. There is also an invoice from BH Fencing & Landscaping dated 26 March 2026 which confirms that the fence works have been completed

3. Evidence that works comprising the laying out and construction of part of the access road into the proposed development have taken place, commencing on 2 April 2026 (two days before the expiry date). Most relevant is an email from the contractor dated 2 April 2026 which confirms that the works commenced on 2 April 2026 and includes photos of those works. An invoice from the contractor for the works dated 21 April 2026 has also been submitted.

The laying of the access road was necessary in order to provide access to the proposed storage units. The acoustic fence was erected in advance of the development commencing as required by Condition 13. It can reasonably be concluded therefore that access road works have been undertaken in the context of the planning permission granted by AWDM/2128/21.

The Council is satisfied on the balance of probability that the laying out and construction of part of an access road is sufficient to confirm commencement of the planning permission AWDM/2128/21 within the specified time. In consequence, the planning permission AWDM/2128/21 remains extant enabling the development to be carried out and completed in full.

Recommendation:

ISSUE CERTIFICATE OF LAWFULNESS

The submitted evidence relating to the laying out and construction of part of an access road is sufficiently precise and unambiguous to satisfy the Council that the development the subject of the planning permission AWDM/2128/21 has been commenced within the relevant 3 year time period in accordance with Condition 1 of that permission.

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

Case Officer: Peter Barnett Date: 18 May 2026

Authorised by: Jo Morin Date: 19.05.2026