

Development Management – Delegated Officer Report

Application Number: AWDM/0492/26

Recommendation: – APPROVE

Site: St Johns Court, Penstone Close, Lancing

Proposal: Application for a Certificate of Lawfulness for confirmation that the planning permission AWDM/0949/22, as varied by AWDM/1492/25, commenced prior to the 3-year expiry in accordance with Condition 2 by the demolition of garages.

Date of Site Visit: N/A

Neighbours Checked: Y

Additional Neighbours Notified: N

Background

The application relates to the site of a three storey flat roofed block of flats known as St John's Court located at the southern end of Penstone Close.

Planning permission was granted on 06.06.2023 under AWDM/0949/22 for the: *'Erection of a three-storey side extension to the existing building and recessed roof top extension to the whole of the building to accommodate 9no. flats comprising 7no. 1-bedroom flats and 2no. 2-bedroom flats. Demolition of existing garage block, reconfiguration to existing car parking, proposed landscaping, and cycle/refuse storage'.*

This was subsequently amended by a s73 application, AWDM/1492/25, which varied some of the conditions of approved application AWDM/0949/22 to allow for the commencement of demolition work before the full discharge of conditions.

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 original permission i.e. 06.06.2026.

Proposal

The current application for a Certificate of Lawfulness seeks confirmation that the development was commenced before 06.06.2026 by way of the demolition of the garage block on the southern boundary of the site.

Relevant Planning History:

AWDM/0949/22- Erection of a three-storey side extension to the existing building and recessed roof top extension to the whole of the building to accommodate 9no. flats comprising 7no. 1-bedroom flats and 2no. 2-bedroom flats. Demolition of existing garage block, reconfiguration to existing car parking, proposed landscaping, and cycle/refuse storage

STATUS: Application Approved 6th June 2023.

AWDM/1492/25 - Application to vary Condition Number(s): 3 (materials), 6 (drainage), 7 (drainage maintenance) and 11 (landscaping) of approved application AWDM/0949/22 to allow for the commencement of demolition work before the full discharge of conditions.

STATUS: Application Approved 7th January 2026

AWDM/1588/25 - Approval of Details Reserved by Condition 4 (Construction Management Plan) of application AWDM/0949/22.

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 demolition of the garage block 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 time-stamped photographs showing the garages in the process of being demolished at 2.25PM on 8th April 2026 and showing that they had been demolished in their entirety by 10.41AM on 10th April 2026.

The demolition of the garages was referred to in the description of the development and their demolition was necessary in order to provide surface car parking spaces in connection with the development. The necessary pre-commencement conditions in so far as they relate to demolition works have been discharged. It can reasonably be concluded therefore that the demolition of the garages has been undertaken in the context of the planning permission granted by AWDM/1492/25.

The Council is satisfied on the balance of probability that the demolition of the garages is sufficient to confirm commencement of the planning permission AWDM/1492/25 within the specified time. In consequence, the planning permission AWDM/1495/22 remains extant enabling the development to be carried out and completed in full.

Recommendation:

ISSUE CERTIFICATE OF LAWFULNESS

The submitted evidence relating to the demolition of the garages is sufficiently precise and unambiguous to satisfy the Council that the development the subject of the planning permission AWDM/0949/22, as amended by AWDM/1492/25, 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: Peter Barnett Date: 20 May 2026

Authorised by: Jo Morin Date: 20.05.2026