Development Control – Delegated Officer Report

Application Number: AWDM/1324/24 Recommendation: APPROVE

Site: Unit 1A Ivy Arch Road Worthing West Sussex BN14 8BX

Proposal: Application for a Lawful Development Certificate for confirmation that planning permission AWDM/0655/21 granted 23/09/2021 has commenced in accordance with condition 2 (time limit for commencement) and that implementation of the permission remains lawful

Date of site visit: NA

Neighbours checked: NA

Additional neighbour notifications: NA

Site and Surroundings

The proposed building would be located between the applicant's existing storage building to the west and an industrial building in separate ownership to the east. The railway line is to the south and the nearest residential properties to the north in King Edward Avenue - these properties have quite long rear gardens and hence the dwellings are about 25 metres away from the proposed building. A Tree Preservation Order relates to the belt of trees further to the western part of the northern boundary of the site.

Proposal

Confirmation is sought that development commenced before 23 September 2024 as required by permission AWDM/0655/21. The applicant seems confirmation that the implementation of the consent therefore remains lawful.

Relevant Planning History:

AWDM/0655/21: Construction of storage building (Use Class B8), including vehicle parking and associated works. Permitted 23 September 2021

AWDM/0932/24: Approval of Details Reserved by Condition 8 (Contamination) of Application No AWDM/0655/21/. Permitted 12 September 2024

AWDM/0732/24: Approval of Details Reserved by Conditions 7 (noise attenuation), 11 (fire hydrant), 12 (materials), 13 (landscaping) and 15 (sustainability measures) of Application AWDM/0655/21. Permitted 22 July 2024

Consultations:
NA

Representations:
NA

Relevant Planning Policies

National Planning Policy Framework (MHCLG 2023)
National Planning Practice Guidance

Planning Assessment
The application is for a certificate of lawfulness to confirm that the application AWDM/0655/21 granted on 23 September 2021 commenced within three years of the grant of permission.

The application is made on the basis that a certificate of lawfulness should be issued as the works constitute implementation of the consent and works were undertaken prior to 23 September 2024. A barrister's opinion was submitted in support.

The original consent had six pre-commencement conditions (7, 8, 11, 12, 13, 15). As set out under the planning history above, these were approved on 22 July 2024 and 12 September 2024.

The application also had a condition (no. 5) for dust management during construction. This was not approved prior to works commencing. However, it is considered that condition 5 on its proper construction is not a true condition precedent, but even if it is, it is not a condition that goes to the heart of the permission.

The Council is therefore satisfied that at the time the works were undertaken all pre-commencement conditions had been satisfactorily approved.

The applicant has undertaken works to implement their consent. They have dug a 19m trench which leads to the proposed storage unit. It is understood the trench has since been backfilled for health and safety reasons. The construction of a trench is sufficient to ensure commencement. This is not affected by its being backfilled.

The applicant has provided photos from 21 September to 23 September in support of the application. Upon request from the LPA a statutory declaration from the construction company was provided which sets out that the works were undertaken prior to 23 September.

It is therefore considered that the development has commenced and works to implement the development are lawful.

Recommendation

APPROVE

The Council is satisfied that works commenced within three years of the granting of planning permission AWDM/0655/21. Works to implement the consent remain lawful.

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

Case Officer:	Louise Prew	Date: 09/12/2024
Authorised by:	Peter Barnett	Date: 9 December 2024