



below, with particular regard to definition (c)). He asserts he was advised that what was carried out was enough to ensure the retention of the planning permission.

3. However, the Council refer to correspondence from the appellant of 5 June 2024 in which he notifies them that works have commenced, and from STROMA, acting for the appellant, confirming this. The Council believe that the appellant's actions, such as discharging pre commencement conditions, claiming a self-build exemption and providing a junction adjacent to the walls of the former mill, indicate a last-minute intention to implement the planning permission in order to ensure its retention before lapsing.
4. Regulation 7(2) explains that development is to be treated as commencing on the earliest date on which any material operation begins to be carried out. The issue before me to decide is whether a material operation has occurred. In a situation such as this I can only reach a conclusion based on the evidence before me and on the balance of probabilities. With that in mind, while I acknowledge the Council's arguments concerning the appellant's actions, as described above, I note they do not state that they viewed the site for themselves to establish precisely what works have taken place. Therefore, there is no evidence before me that counters the appellant's description of the works that have been carried out. That being the case, I consider it reasonable to accept the appellant's contention that the digging of the trench and laying of pipe did not go down to the foundations of a building. Therefore, on the evidence available and on the balance of probabilities, I cannot be satisfied that the works described amount to a material operation as defined in section 56(4) of the 1990 Act, and consequently I cannot conclude that works on the chargeable development commenced.

## Conclusion

5. As I have concluded that works have not commenced on the chargeable development, and as the appeal has been made on Regulation 118 alone, I must decline to determine the appeal.

*K McEntee*

## Annex to the decision

Material operations as defined in section 56(4) of the 1990 Act

(a) any work of construction in the course of the erection of a building;

**[F9(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 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.