

Our ref: LB1321

Planning Portal Ref: PP-14637435

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Dear Sir/Madam

**LAWFUL DEVELOPMENT CERTIFICATE FOR A PROPOSED USE
UNIT 2, CHURCHILL WAY WEST RETAIL PARK, SALISBURY, SP2 7TS**

This Lawful Development Certificate application is submitted on behalf of our client, The Gym Group, pursuant to Section 192 of the Town and Country Planning Act 1990. The proposal seeks to establish the lawfulness of the proposed use of Unit 2, Churchill Way West Retail Park, Salisbury, SP2 7TS within Class E(d) for indoor sport, recreation or fitness use. Accordingly, the application has been submitted via the Planning Portal (Ref:14637435) with the following description of development:

"Proposed Use within Class E for indoor, sport, recreation and fitness".

In line with national and local validation requirements, the following documents are enclosed:

- Application form
- Covering Letter (this document contains the Applicant's statement of case demonstrating the lawfulness of the proposed use)
- Site Location plan

Site Description and Background Information

The Site forms part of Churchill Way West Retail Park, Salisbury. The retail park is directly north of Churchill Way West (A36) and approximately 650 metres from Salisbury Town Centre. The Site lies within the urban area of Salisbury in an edge of centre location.

The retail park contains 4 units, Unit 4 containing Waitrose Supermarket, Unit 3 Sports Direct and Units 1 and 2 (Unit 2 being the application site) being subject to a recent planning consent for alterations. Lidl are to occupy Unit 1 and The Gym Group Unit 2.

Planning application ref: PL/2024/09079 was permitted in July 2025, the consent related to the refurbishment of Units 1 and 2, with the amalgamation of Unit 1 and part of Unit 2 to allow Lidl Supermarket to operate from the new larger unit (Unit 1) and the remaining space to provide a smaller unit (Unit 2). Apart from Condition 5, which prevents certain goods from being sold from Unit 2, there are no conditions which limit the use of Unit 2, restrict the premises to Class E(a) only or which prevent the unit from being used for another purpose within Class E. Furthermore, neither the original S106 or subsequent variation restricted the use of the units.

Vehicular and pedestrian access to the retail park is via the A36 to the south and the park is within walking distance of the surrounding residential areas to the east and west, with combined pedestrian and cycle paths available providing access to the City Centre.

The building and planning history demonstrate that the lawful use of the property is within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Proposed Use

The proposal is for Unit 2 to be used for indoor sport, recreation and fitness within Class E. Both the existing and proposed use fall within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Planning application ref: PL/2024/09079 was permitted in July 2025, confirms the use of Unit 2 as being in Class E. Condition 5 prevents certain types of goods which can be sold from Unit 2, but there are no conditions or S106 obligations restricting the use of the unit for another purpose within Class E.

The purpose of the Lawful Development Certificate is to confirm that the use of this accommodation within any Class E use would be lawful. The proposed future occupier of the unit is The Gym Group.

The Gym Group has built a successful business model operating 24 hour health and fitness uses, and therefore, has considerable experience in ensuring that their units operate efficiently and without disruption. The Gym Group is looking to expand into new locations throughout the UK and are an established operator having over 250 similar operations in locations across the UK. The Gym Group aims to increase access to health and fitness activities to a wide demographic to encourage and improve health by providing a low cost and flexible gym membership option. On average 35% of The Gym Group's members have not been to a gym before with The Gym Group attempting to provide its facilities to a much wider market. The Gym Group provides a high quality but cheaper option for health and fitness activity.

No external works are required to facilitate the new use and access will be taken from the existing ground floor entrance within the Retail Park.

Legislative Background and Requirements

This application is made under Section 192 of the Town and Country Planning Act 1990 (the "Act"). Section 192 provides individuals the opportunity to apply to the Local Planning Authority to obtain a decision on whether "*(a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land*" would be lawful. If the Local Planning Authority is satisfied that the appropriate legal tests have been met, it will grant a lawful development certificate.

The statutory framework covering "lawfulness" for lawful development certificates is set out in section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "DMPO") specifies the contents of an application and how it must be submitted. It sets out that an application needs to describe precisely what is being applied for and the land to which the application relates. This application has been prepared to satisfy the requirements of the DMPO.

The legislation affirms that there is no statutory requirement to consult third parties including parish councils or neighbours; indeed, views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application. A Local Planning Authority is required to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application process.

Meaning of Development

Section 55 of the Act sets out the meaning of "development". Part (1) defines "development" for the purposes of planning legislation. It states that "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Part (2) outlines that the use of land shall not be taken for the purposes of this Act to involve development of the land; Part (2) f) confirms:

f) "in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class"

Planning Assessment

The established use of the premises is within Class E. This is confirmed by the planning history.

The Town and Country Planning (Use Classes) Order 1987 (as amended) sets out Use Classes for the purposes of planning legislation. As of 1st September 2020, the Government revised the Use Class Order, creating a new 'Commercial, Business and Service' use class, Class E under Part A of Schedule 2.

As identified by Part A (a) of the Schedule, "the retail sales of goods" fall within Class E of the Use Classes Order, as does indoor sport, recreation or fitness, as confirmed in Part A(d).

As stated within the Government's Explanatory Memorandum accompanying the recent Use Class Order amendments, the previous Use Class Order was first introduced in 1987 and required an overhaul to better reflect the diversity of uses and to provide the flexibility for businesses to adapt and diversify to meet changing demands. Indeed, the Explanatory Memorandum goes on to stress that modern centres have changed so that they now seek to provide a wider range of facilities and services, including new emerging uses, that will attract people and make these areas viable now and in the future.

As stated within the Explanatory Memorandum *"Changes to another use, or mix of uses, within this class do not require planning permission. Bringing these uses together and allowing movement between them will give businesses greater freedom to adapt to changing circumstances and to respond more quickly to the needs of their communities"*.

Given the lawful use of the building is within Class E, confirmation is sought that a proposed use of the building within another use within Class E use or a mixture of Class E uses does not amount to development. In this regard, Article 3(1) of the Use Classes Order sets out that:

"Subject to the provisions of this Order, where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land".

This is consistent with Part (2) f) of Section 55 of the Act, which sets out that use of a building and land for a purpose within the same use class does not amount to 'development' and does not require planning permission.

The proposal will enable the reuse of the accommodation by an identified health and fitness tenant. The proposed use falls within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. From a review of the planning history, it is evident that there are no conditions or S106 obligations that restrict the ability to move between Class E uses. In light of the above, it is therefore clear that the existing and proposed uses of the site fall within the same Use Class, and the premises can be used for indoor sport, fitness and recreation without planning permission. The proposed use of this unit does not amount to development and therefore does not require planning permission, as set out in (2) f) of Section 55 of the Act.

Summary

This application is made under Section 192 of the Town and Country Planning Act 1990 and seeks a Lawful Development Certificate confirming that planning permission is not required for the occupation of Unit 2 Churchill Way West Retail park, Salisbury as a use within Class E(d) as set out within this letter.

The submission confirms the current lawful use within Class E, with the proposed use of this accommodation within Class E for an indoor sport, recreation and fitness use being lawful. The proposal therefore does not amount to development, meaning it does not require planning permission. The proposals are consistent with

Section 192 of the Act and we therefore request that the Lawful Development Certificate is granted at the earliest opportunity.

Yours faithfully

Matt Brewer
URBANSPEACE Planning Ltd

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