

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/00560
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	Unit 2, Churchill Way West, Salisbury, SP2 7TS
DEVELOPMENT DESCRIPTION:	Lawful development certificate for proposed change of use from Use Class E(a) to E(d).
RECOMMENDATION:	Approve

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed change of use from Use Class E(a) to E(d) to allow The Gym Group to occupy Unit 2.

The planning merits of the proposal are not under consideration. The only issue is whether the proposed works constitute “permitted development” (PD) under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter referred to as “the GPDO”].

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP’s is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is “lawful” if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

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). The application has been assessed against the relevant criteria set out in this Schedule.

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”

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

RELEVANT SITE HISTORY

The site has an extensive planning history with the following relevant planning history marked in red below:

Proposal / Summary
S/1997/1194 - Consent to display an advertisement Decision - Approve with Conditions Date: 18/9/1997 – Internally illuminated fascia sign
S/2004/0598 - Consent to display an advertisement Decision - Approve with Conditions Date: 22/4/2004 – INTERNALLY ILLUMINATED STATIC SIGNAGE AT COMET (UNIT 2)
14/00583/FUL - Full planning permission Decision - Approve with Conditions Date: 24/4/2014 – Installation of mezzanine floor within unit 2 to replace existing
14/00588/FUL - Full planning permission Decision - Approve with Conditions Date: 24/4/2014 – Alterations to front elevation including new entrance doors, additional glazing and new fire doors. Replace existing roller shutter door with a new goods in entrance door to the rear elevation
14/00589/VAR - Removal/variation of conditions Decision - Approve with Conditions Date: 24/4/2014 – Vary Condition 29 of S/1993/1019 to extend the range of products that can be sold from Unit 2
14/07240/FUL - Full planning permission Decision - Refused Date: 2/10/2014 – Installation of 11x air conditioning units and associated plant
S/2010/1133 - Full planning permission Decision - Approve with Conditions Date: 27/9/2010 – EXTERNAL ALTERATIONS INCLUDING INSTALLING WINDOWS EITHER SIDE OF EXISTING ENTRANCE
14/04299/ADV - Consent to display an advertisement Decision - Approve with Conditions Date: 15/9/2014 – Installation of 3 x internally illuminated fascia sign (one over main entrance, one over entrance doors, one over rear goods in doors). Installation of 1 x non illuminated fascia beside main entrance doors
14/10126/FUL - Full planning permission Decision - Approve with Conditions Date: 2/4/2015 – Installation of 11x air conditioning units and associated plant
S/1998/1207 - Consent to display an advertisement Decision - Approve with Conditions Date: 9/9/1998 – NEW INTERNALLY ILLUMINATED (HALO LIT) FASCIA SIGNAGE TO CAR PARK ELEVATION

S/2004/0034 - Full planning permission Decision - Refused Date: 10/3/2004 – CANOPY TO UNLOADING BAY AREA OF SERVICE YARD
S/1999/0547 - Consent to display an advertisement Decision - Approve with Conditions Date: 22/7/1999 – FOUR POLE MOUNTED BANNERS
S/1999/0548 - Consent to display an advertisement Decision - Approve with Conditions Date: 22/7/1999 – TWO REPLACEMENT INTERNALLY ILLUMINATED TOTEM POLE ADVERTISEMENTS
S/2003/1514 - Consent to display an advertisement Decision - Approve with Conditions Date: 18/9/2003 – VARIOUS SIGNAGE
S/2004/2226 - Consent to display an advertisement Decision - Approve with Conditions Date: 30/11/2004 – ADVERTISEMENT CONSENT - CHANGES TO EXISTING ADVERTISEMENT.
14/06709/ADV - Consent to display an advertisement Decision - Approve with Conditions Date: 7/10/2014 – Various signage
14/10546/VAR - Removal/variation of conditions Decision - Approve with Conditions Date: 15/12/2014 – Variation of condition 2 of S/1996/0961
S/1999/2029 - Full planning permission Decision - Approve with Conditions Date: 10/1/2000 – SHOPFRONT CHANGES
S/2013/0331 - Consent to display an advertisement Decision - Approve with Conditions Date: 30/4/2013 – Various signage
18/01378/FUL - Full planning permission Decision - Approve with Conditions Date: 5/4/2018 – Installation of 3no. new automatic number plate recognition cameras. 2no. camera to be fixed to existing lighting columns & 1no. camera to be fixed to a new galvanized steel camera column within the Waitrose car park.
20/04730/VAR - Removal/variation of conditions Decision - Approve with Conditions Date: 20/9/2021 – Variation to Condition 29 (range and type of goods to be sold) for S/1993/1019.
PL/2024/05353 - Removal/variation of conditions Decision - Approve with Conditions Date: 11/12/2024 – Variation of Condition 12 of planning application S/1993/1019 for new permitted trading hours on bank holidays and public holidays only, to extend trading hours on bank holidays and public holidays from 8.00am-6.00pm to 7.00am-9.00pm
PL/2024/09079 - Full planning permission Decision - Approve with Conditions Date: 18/7/2025 – Full planning permission for external alterations to Units 1 and 2 to create 2 X retail units (Units 1 and 2) and for the use of proposed Unit 1 for retail sales within Class E of the Town and Country Planning (Use Classes) Order, including for the sale of convenience goods from 80% of the sales area and unrestricted comparison goods from the remaining 20%, alterations to vehicle car park and associated development

PL/2025/06796 - Approval of details reserved by a condition Decision - Approve Date: 10/10/2025 – Discharge of condition 3 (Assessment of the Acoustic Impact) relating to application PL/2024/09079.

PL/2025/06797 - Approval of details reserved by a condition Decision - Withdrawn by Council Date: 24/10/2025 – Discharge of condition 8 (External Building Services Plant) relating to application PL/2024/09079.

PL/2025/07203 - Removal/variation of conditions Decision - Approve with Conditions Date: 15/10/2025 – Variation of Condition 11 relating to application S/1997/0130 to extend permitted trading hours on Sundays, Bank Holidays and Public Holidays to between 06:30am to 10.00pm

PL/2025/09508 - Approval of details reserved by a condition Decision - Approve Date: – Discharge of condition 9 Travel Plan of planning application PL/2024/09079 (Full planning permission for external alterations to Units 1 and 2 to create 2 X retail units (Units 1 and 2) and for the use of proposed Unit 1 for retail sales within Class E of the Town and Country Planning (Use Classes) Order, including for the sale of convenience goods from 80% of the sales area and unrestricted comparison goods from the remaining 20%, alterations to vehicle car park and associated development)

PL/2025/09509 - Approval of details reserved by a condition Decision - Approve Date: 6/1/2026 – Discharge of condition 10 Car Park Management Strategy of planning application PL/2024/09079 (Full planning permission for external alterations to Units 1 and 2 to create 2 X retail units (Units 1 and 2) and for the use of proposed Unit 1 for retail sales within Class E of the Town and Country Planning (Use Classes) Order, including for the sale of convenience goods from 80% of the sales area and unrestricted comparison goods from the remaining 20%, alterations to vehicle car park and associated development)

S/1990/0900 - Full planning permission Decision - Approve with Conditions Date: 11/7/1990 – DEEMED APPLICATION - CONSTRUCTION OF PORTAKABIN TYPE BUILDINGS FOR TEMPORARY COURT USE. ANTICIPATED PERIOD FROM 1/9/90 TO 1/4/91

S/1993/1019 - Outline Planning Decision - Approve with Conditions Date: 17/11/1993 – O/L APPLICATION - TO CONSTRUCT A NEW SUPERSTORE WITH COFFEE SHOP, NON-FOOD RETAIL UNIT(S), PETROL FILLING STATION, CAR PARKING AND ANCILLARY SERVICE AREAS AND

S/1996/0970 - Full planning permission Decision - Approve with Conditions Date: 2/9/1996 – Variation to conditions 04 & 05 of Outline Planning Permission Ref: S/93/1019. Changes to layout, access, landscaping and retention of Jeary's building

S/1996/0971 - Full planning permission Decision - Approved Date: 23/8/1996 – Details pursuant to condition 21 of S/93/1019/TP in respect of flood alleviation

S/1997/0863 - Full planning permission Decision - Approve with Conditions Date: 21/7/1997 – Change of condition number 13 to planning permissions S/93/1019 and

condition 11 of S/97/0130 Mon-Sat 6.30am - 10pm. Sunday and Bank Holidays 8am - 7pm for petrol filling station
S/1998/1488 - Consent to display an advertisement Decision - Approve with Conditions Date: 13/11/1998 – ILLUMINATED INTERNAL FASCIA SIGN
S/1998/1530 - Full planning permission Decision - Approved Date: 26/10/1998 – INSTALL TWO DOORWAYS IN REAR ELEVATION FOR FIRE EXITS
S/78/1012 - Full planning permission Decision - Approve Date: 13/12/1978 – Proposed road safety training centre and car park including erection of building at the Cattle Market car park
S/82/0110 - Full planning permission Decision - Approve Date: 24/3/1982 – Construction of proposed new garage adjacent to the existing Roadcraft Centre at Cattle Market car park

As outlined above, there is an extensive planning history on this site and therefore, for the purposes of clarity, the most relevant/important planning permissions to the consideration of this certificate application are highlighted in red above.

ASSESSMENT AND CONCLUSION

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 the centre of Salisbury. 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 occupy Unit 1 and The Gym Group are to occupy Unit 2, the application site.

Use Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 is the “Commercial, Business and Service” use class introduced on 1 September 2020, combining several former A, B1 and D class uses into one flexible category. Movement between any of these uses does not constitute development, and therefore does not require planning permission unless restricted by condition or Article 4 directives. The breakdown of Use Class E is shown below.

E(a) – Shops

Retail sale of goods, retail warehouses, post offices etc

E(b) – Restaurants and Cafes

Food and drink for consumption on the premises (not including pubs or takeaways).

E(c) – Financial, Professional and Other Commercial Services

- E(c)(i): Financial services (banks, building societies).
- E(c)(ii): Professional services (estate agents, employment agencies).
- E(c)(iii): Other appropriate commercial services.

E(d) – Indoor Sport, Recreation or Fitness (emphasis added)

Gyms, fitness centres, yoga studios, indoor sports facilities (excluding swimming pools and skating rinks).

E(e) – Medical or Health Services

Clinics, health centres, dentist and similar health-related services

E(f) – Creches, Day Nurseries and Day Centres

Including childcare and non-residential daycare facilities

E(g) – Offices, R&D and Light Industrial Uses (formerly B1)

- E(g)(i): Offices.
- E(g)(ii): Research and development.
- E(g)(iii): Light industrial processes suitable for a residential area.

Planning application ref: PL/2024/09079 was permitted in July 2025 and confirmed the use of Unit 2, subject to this certificate proposal as being in Use Class E of Use Classes Order (2020) as amended. This use class combines many former commercial, retail, leisure and service uses into a single flexible category as outlined above.

Condition 5 of the planning consent, PL/2024/09079 prevents certain types of goods which can be sold from Unit 2, but officers are satisfied there are no conditions or S106 obligations restricting the use of the unit for another purpose within Class E of this Order. Condition 5 states:

The use of the non-food retail unit (known as Unit 2) hereby permitted shall not be used for the sale of any goods other than those within the following categories:

DIY and/or garden goods, furniture, carpets and floor coverings, camping, boating and caravanning goods, motor and cycle goods, bulky electrical goods, toys, children's furniture and nursery equipment and goods, the sale of non-bulky goods from no more than 33% of the unit's floorspace, soft and hard furnishings and household textiles, pictures, homewares, glassware, tableware, household goods, bathroom and kitchen goods and accessories, household cleaning products, lighting, seasonal goods, giftware and pet products and ancillary confectionary/foodstuffs; and this latter category not exceeding 4% of floorspace.

Goods falling outside this range may be sold only where they form a minor and ancillary part of the store's operation.

There shall be no sub division of the planning unit to create any additional retail units or additional internal floorspace created.

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposals to change the range and types of goods sold from the premises having regard to the circumstances of the case and the impact on the vitality and viability of the city centre.

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.

The proposed development does fall within the scope of permitted development, as defined under Schedule 2, Part A, Class E (d) of the Use Classes Order (as amended) 2020. It meets all relevant limitations and conditions, and no restrictions (such as Article 4 Directions or planning conditions) are in force that would remove the permitted development rights relied upon.

The application seeks a Certificate of Lawfulness for a Proposed use under Section 192 of the Town and Country Planning Act 1990 for the change of use of Unit 2, Churchill Way West Retail Park from Use Class E(a) – retail to Use Class E(d) – Indoor Sport, recreation or fitness. The unit is to be occupied by The Gym Group. Because both E(a) and E(d) fall within the same broad Use Class E, introduced in 2020, movement between these uses does not constitute development and therefore does not require planning permission, provided no conditions or Article 4 Directions restrict that flexibility. The planning history confirms the site's lawful use within Class E, and no restrictions remove permitted development rights.

The Local Planning Authority is satisfied, on the balance of probabilities, that the proposed change of use from Use Class E(a) (retail) to Use Class E(d) (Indoor sport, recreation or fitness) falls entirely within Use Class E of the Town and County Planning (Use Classes) (Amendment) (England) Regulations 2020.

The proposed development is therefore considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended), and a Certificate of Lawfulness for the proposed use is accordingly granted.

RECOMMENDATION

It is recommended that a Certificate of Lawfulness for Proposed Development be GRANTED for the following use/development:

Reason for approval: In accordance with Section 192 of the Town and Country Planning Act 1990 it is considered that on the balance of probabilities, the change of use from Use Class E(a) (retail) to Use Class E(d) (indoor sport, recreation or fitness) would be lawful. Therefore, the proposal is in accordance with relevant statutory provisions and does not require planning permission.

INFORMATIVE(S) TO APPLICANT(S):

1. This Certificate should be read in conjunction with the Unilateral Undertaking dated the 2nd April 2025.
2. This Certificate of Lawfulness relates solely to whether the proposed change of use from Use Class E(a) to Use Class E(d) is lawful under Section 192 of the Town and Country Planning Act. It does not grant planning permission nor does it imply approval for any external alterations, signage, or operational development that may require a separate application.