

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/01872
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	Service Station, West Cepen Way, Chippenham, SN14 6UZ
DEVELOPMENT DESCRIPTION:	Application for a certificate of lawfulness of proposed 24 hour opening of kiosk/store for sale of fuel and retail goods from the Morrisons Chippenham Fuel Station
RECOMMENDATION:	Approve

SITE DESCRIPTION AND PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) for a Proposed Use or Development under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed 24-hour opening of the Morrisons Chippenham Fuel Station. 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”] and / or would require planning permission by virtue of constituting ‘development’.

The site comprises land forming part of the petrol filling station associated with the Morrison’s supermarket in Chippenham. The site lies just within the limits of the development for the town, one of Wiltshire’s Principal Settlements. South west and south east of the site is residential development forming part of the large scale Cepen Park North development originating in the late 1990s.

The site is not in the setting of any heritage assets, nor are any ecological or landscape designations in place. The site falls within Flood Zone 1, at the lowest level of flood risk from fluvial sources, and is not known to be at risk of flooding from surface or groundwater sources.

Revised plans were submitted during the course of application to clarify the extent of the application site, this was alongside a change to the Description of Development – both to make it explicitly clear that the lawfulness only relates to a certain parcel of the planning unit, and specifically not the jet wash facilities (as explained below).

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.

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town / Parish Councils or neighbouring properties, for this type of application. As such, no site notice or neighbour notification has been undertaken for this application.

RELEVANT SITE HISTORY

The site has the following relevant planning history (exc tree and advertisement applications):

Proposal / Summary
PL/2025/00114 – Full planning permission Decision - Approve with Conditions Date: 25/9/2025 – Removal of existing Calor Gas and erection of three new jet washes, combi unit, valeting bay and associated works
20/11466/FUL – Full planning permission Decision - Approve with Conditions Date: 28/5/2021 – Demolition of Existing Petrol Station Kiosk and Car Wash, Construction of Replacement Larger Kiosk Building. Works Involve Removal of Roof Linked to Forecourt Canopy, Creation of New Additional Parking Spaces and Addition/Relocation of Jet Wash, Air/Vac B
N/99/00297/FUL – Full planning permission Decision - Unknown Date: 25/6/1999 – Erection of jetwash/hardstanding and projecting screens adjacent to existing petrol filling station forecourt
N/95/00955/FUL – Full planning permission Decision - Approved Date: 21/6/1995 – Installation of satellite antenna for two-way data communication satellite antenna
93/02260/D – Detailed – Approved – Date – 25/02/1994 – Details of retail store (Class A1) with associated car parking/ petrol filling station/ servicing and landscaping (details of 93/0902/OL)
93/0902/OL Outline – Decision – Approved – Date 23/08/1993 – Retail foodstore with associated car parking/ petrol filling station/ servicing/ landscaping/ highway works to section R1 and R2 of bypass
93/01454/OL – Outline – Decision – Withdrawn – Date – Unknown – Retail foodstore with associated parking/ petrol station/ servicing / landscaping/ highway works to sections R1 and R2 of bypass

ASSESSMENT

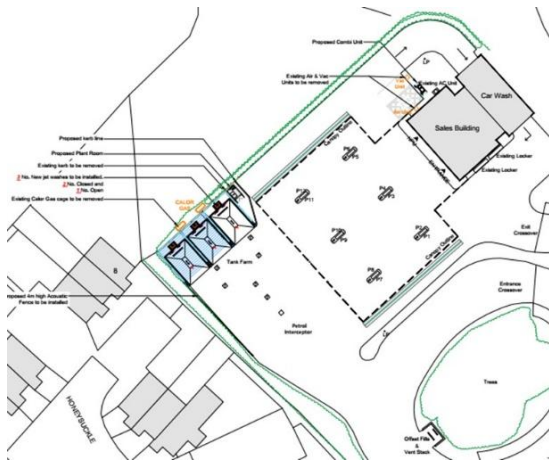
The proposal seeks to confirm whether a 24-hour opening of the petrol filling station – the retail and fuel sales area – would be lawful, in the context of Section 192 of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Planning permission was originally granted in outline for the petrol filling station as part of the wider scheme encompassing the retail foodstore in 1993 (23/08/1993). This outline permission was subject to a total of 8no. conditions, none of which relate to a restriction of opening hours for the facility. That permission was followed by detailed application

93/02260/D, which was granted permission on 25/02/1994 subject to a total of 4no. conditions – again, none of which relate to any restriction of opening hours for the facility.

More recently, planning application 20/11466/FUL granted permission for the demolition of the existing kiosk and car-wash and erection of replacement (larger) kiosk building, along with associated works. That application was granted permission 28/05/2021 but was not implemented and has since lapsed. It is noted that no conditions were attached to that planning permission relating to any restriction of opening hours – the Officer's Report refers to amenity issues, but the impacts and associated mitigation were resolved during the course of determination through revised siting of noise emitting equipment.

On 25/09/2025 planning permission was granted for the installation of (inter alia) jet-wash facilities, under application ref. no. PL/2025/00114. These are shown located at the western extent of the site, adjacent to the residential properties accessed via Honeysuckle Lane, as shown on the plan extract below:



Extract from approved dwg: Proposed Site Plan (14313-2348-201/D).

Given the amenity impacts arising, planning permission was granted, but subject to a condition (no.4) that the facilities shall only be available for use only between the hours of 07:00 and 22:00. This planning permission remains extant.

Based on the above, the context is one where there is no restriction of operating hours for the kiosk and fuel / retail sales area, however there is a restriction on the jet-wash facility, for amenity reasons. As such, and with the planning unit taken to be the entire petrol filling station area, the red-line boundary and Description of Development was amended during the course of determination to make it explicitly clear that the lawfulness of unrestricted hours of opening relates solely to the kiosk for fuel and retail sales (with the associated forecourt area), and does not include the approved jet-wash facilities. A note can be added to any granted CLP to this effect.

CONCLUSION

Based on the above, and with the amended Description of Development and associated amended Site Location Plan, the proposed development is considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

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

Reason for approval: The proposed development is deemed lawful under Section 192 of the Town and Country Planning Act 1990. Therefore, the proposal is in accordance with relevant statutory provisions and does not require planning permission.

SCHEDULE 1: Application for a certificate of lawfulness of proposed 24 hour opening of kiosk/store for sale of fuel and retail goods from the Morrisons Chippenham Fuel Station

SCHEDULE 2: Service Station, West Cepen Way, Chippenham, SN14 6UZ (Site Location Plan: 26980-10-PA01-B, received 24/04/2026).

Notes:

- 1. This Certificate is issued solely for the purpose of Section 191 of the Town & Country Planning Act 1990 (as amended).**
- 2. This Certificate of Lawfulness relates solely to the kiosk for fuel and retail sales, with the associated forecourt area. In particular, it does not relate to or include the approved jet-wash facilities, which were approved by planning permission PL/2025/00114, which remains extant at the time of determination of this CLP, and which restricts the hours of use of that facility by Condition no.4 to between the hours of 07:00 and 22:00 only.**
- 3. It certifies that the use or development specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful on the specified date and thus would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.**
- 4. This Certificate applies only to the extent of the proposed use or development described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use or development which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.**
- 5. The effect of the Certificate is also qualified by the proviso in Section 192 (4) of the 1990 Act, as amended. This states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change before the use is instituted or the operations begun in any manner relevant to determining such lawfulness.**