
Site Address: 7 Wellington Retail Park, 2 Hambledon Road,
Waterlooville, PO7 7FG

Proposal: Application for a Lawful Development Certificate for a Proposed Use as a
Gym or Cafe within Use Class E - Commercial, Business and Service of the Town and
Country Planning (Use Classes) Order 1987 (as amended).

Application Type: Certificate of Lawfulness

Application No: APP/23/00145 Expiry Date: 14/04/2023

Applicant: Corona Vulcan Wellington Ltd

Agent: Mr H Manners Case Officer: Leanne Richardson
Montagu Evans

Ward: Waterloo

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

- 1.1 This application relates to two retail units (annotated as Units 3 and 4 on the submitted location plan 216-PL3-1.PA) which are currently occupied by Jolleys Pet Superstore and Halfords and which are located within the established Wellington Retail Park.
- 1.2 Wellington Retail Park is located within the western part of Waterlooville town centre and consists of a mix of retail stores with designated car parking areas.

2 Planning History

- 2.1 Planning permission was originally granted for the retail units the subject of this application under planning ref: 88/50241/000, dated 05/04/88. The development approved at that time was for the following:

Erection of 20,000sqft (1,858sqm) (GIA) of retail warehouse accommodation and associated car parking and landscaping (divided into two units) (as modified by drawings received 24.2.88 and 26.2.88) - land at Hambledon Road, Waterlooville.

- 2.2 A restrictive condition (Condition 21) was imposed as to the use of the premises as follows:

The range of goods sold and/or displayed shall be restricted to bulky DIY goods, heavy electrical goods, motoring accessories including fixings of exhausts and batteries, cycles and accessories, yachting accessories, furniture and carpets and no other goods shall be sold from the premises without the prior written consent of the Council.

Reason: *To prevent the establishment of a Class A1 retail centre of convenience and comparison goods which would be prejudicial to existing established shopping centres.*

- 2.3 Subsequent to this, planning permission ref: 02/50241/007 was approved on 19/04/02 to vary condition 21 to broaden the range of products that could be sold at the premises, as follows:

The range of goods sold and/or displayed shall be restricted to bulky goods including the fitting of exhausts and batteries, and shall not be used for the sale of food (other than confectionery and pet foods), clothing (other than sports goods), fashion accessories (including handbags, luggage, watches and jewellery), books, stationery (except when sold from an office supplier's store), perfumery and toiletries, music, records, CDs, audio and video tapes (including hire), china, glass goods and kitchenware, unless any of the above are ancillary to, or related to, the main ranges of bulky goods to be sold.

Reason: *In order to ensure that the vitality and viability of the existing Waterlooville Town Centre is not undermined by the nature of retail uses permitted on this site.*

- 2.4 Most recently, planning permission APP/13/01233 was approved on 05/02/14 to remove condition 21 in light of changed retail circumstances regarding the site. With no conditions imposed on this permission other than the approved plans, there is therefore no condition restricting the operation of normal permitted development and use class rights surrounding the premises.

3 Proposal

Application for a Certificate of Lawfulness for the proposed change of use from retail {Class E (A)} to a Gym {Class E (D) or Café (Class E (B))}.

4 Policy Considerations

Not relevant to Certificate of Lawfulness Applications.

5 Statutory and Non Statutory Consultations

Not relevant to Certificate of Lawfulness Applications submitted under S192 of the Town and Country Planning Act 1990 as amended.

6 Community Involvement

Not relevant to Certificate of Lawfulness Applications submitted under S192 of the Town and Country Planning Act 1990 as amended.

7 Planning Considerations

- 7.1 The planning history of the site demonstrates that the lawful use of the units is for retail use (formerly Class A1 and now defined as Class E). Following a review of the planning history, as set out at Section 2 above, Officers are satisfied that there are no planning conditions that explicitly restrict the use to Class E(A) i.e. retail only.
- 7.2 The proposal has been assessed against the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.
- 7.3 Under Schedule 2, Part Commercial, Business and Service, the proposed development meets the following tests:

Class E. Commercial, Business and Service

Use, or part use, for all or any of the following purposes—

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public, - this being the current use**
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises, - this covering use as a Café as applied for**
- (c) for the provision of the following kinds of services principally to visiting members of the public—**
 - (i) financial services,
 - (ii) professional services (other than health or medical services), or
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public, - this covering use as a Gym as applied for**
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,**
- (f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,**
- (g) for—**
 - (i) an office to carry out any operational or administrative functions,
 - (ii) the research and development of products or processes, or
 - (iii) any industrial process,

being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

- 7.4 As the existing retail units falls within Class E (a) and the proposed gymnasium (Class E (d)) and café (Class E (b)) fall within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, the proposed change of use can be permitted.

8 Conclusion

- 8.1 The proposed development for the proposed change of use from retail Class E (A) to (gym) Class E (D) and a café Class E (B)) falls within the regulations as set out in Schedule 2, Part A, of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. Therefore, a Lawful Development Certificate can be issued.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/23/00145 for the following reason:

The proposed development for the proposed change of use from retail Class E (A) to (gym) Class E (D) and a café Class E (B)) falls within the regulations as set out in Schedule 2, Part A, of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. Therefore, a Lawful Development Certificate can be issued.

Information for decision notice:

FIRST SCHEDULE:

This certificate relates to the following development:

Application for a Lawful Development Certificate for a Proposed Use as a Gym or Cafe within Use Class E - Commercial, Business and Service of the Town and Country Planning (Use Classes) Order 1987 (as amended). as described in the written particulars, plans and other documents submitted with your application received on 17 February 2023.

SECOND SCHEDULE:

This certificate relates to land at 7 Wellington Retail Park, 2 Hambledon Road, Waterlooville, PO7 7FG as shown edged red on the submitted Location Plan received 17 February 2023.