

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

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Not relevant to this application.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

(i) Principle of development

7.2 The proposal has been assessed against the allowances in the Town and Country Planning (Use Classes) (amendment) (England) regulations 2020.

7.3 Under Schedule 2, Part A 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,
- (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,
- (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,
- (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 ground floor retail unit falls within Class E (a) and the proposed gymnasium use falls within Class E (d), as they are both within Class E the 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 indoor sport fitness (gym) Class E (D) 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/21/00877

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Certificate of Lawfulness for the proposed change of use from retail Class E (A) to indoor sport fitness (gym) Class E (D). as described in the written particulars, plans and other documents submitted with your application received on 02 August 2021.

SECOND SCHEDULE:

This certificate relates to land at 270 London Road, Waterloooville PO7 7HG as shown edged red on the submitted Location Plan received on 02 August 2021.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 192 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) It certifies that the development specified in the First Schedule taking place on land described in the Second Schedule would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not have been liable to enforcement action under part 7 of the 1990 Act on that date.
- (3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.
- (4) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which 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 of the matter relevant to determining such lawfulness.
- (5) Your attention is drawn to the attached information regarding your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision.

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- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan
Planning Statement

Reason: - To ensure provision of a satisfactory development.