

Our Ref. JOB001646/LT/TC

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22 January 2026

Dear Sir / Madam,

**UNIT 7, WELLINGTON RETAIL PARK, HAMBLETON ROAD, PO7 7UL
APPLICATION UNDER SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
TO CERTIFY THAT THE PROPOSED 24-HOUR OPENING OF UNIT 7 AS A GYM AS LAWFUL**

We write on behalf of our client, BL Wellington Limited, (*'the Applicant'*), to apply to Havant Borough Council for a Certificate, pursuant to Section 192 of the Town and Country Planning Act 1990 (as amended), to certify that it would be lawful for Unit 7 (also known as Unit 3) at Wellington Retail Park in Waterlooville (*'the Site'*) to operate as a gym within Use Class E(d), open to the public 24 hours per day.

In accordance with the Town and Country Planning (Development Management Procedures) Order 2015, the application comprises the following:

- This Covering Letter, dated 22 January 2026;
- The completed Application Form, dated 22 January 2026;
- Planning Permission Ref. APP/13/01233;
- Planning Permission Ref. APP/23/00145;
- Drawing Ref: 216-PL5-100.P1 "Site Location Plan"

The application has been submitted via the Planning Portal (Ref: PP-14622095) and the requisite fee of £379 has been calculated in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications, Request for Site Visits) (England) Regulations 2012 (as amended) and paid via the Planning Portal.

The Application Site

The Site comprises Unit 7 (also known as Unit 3) Wellington Retail Park, located within Waterlooville Town Centre. Wellington Retail Park comprises three separate terraces of retail units located either side of Hambleton Road, to the north of Maurepas Way (A3), the majority of which are within the Waterlooville Town Centre boundary. Operators at the Park include Sainsbury's, TK Maxx, M&S, and Home Bargains amongst others. The Retail Park therefore constitutes a key part of the Town Centre retail offering. The remainder of the Town Centre is located to the south of Maurepas Way (A3) and comprises a more traditional town centre layout with small units situated in a linear pattern along main high streets.

Units 7 is located between B2150 Hambleton Road opposite the Sainsburys store, and immediately north of the Food Warehouse and Home Bargains units. The terrace comprises three units, occupied by Jollyes (Unit 5, also known as Unit 4), former Halfords (Unit 7, also known as Unit 3), and Dreams (Unit 9, also known as Unit 3A). Halfords no longer occupies Unit 7, having vacated in September 2024, and the Unit has been unoccupied since.

It is the intention of The Gym Group to occupy Unit 7, subject to the lawful certification of the proposals subject to this application.

Relevant Planning History

The units at the Wellington Retail Park, including Unit 7, were originally approved under Planning Permission Reference 88/05241 dated 1988. Condition 15 attached to the permission restricted the subdivision of the units, and Condition 21 restricted the range of goods that could be sold. There were no restrictions in respect of opening hours.

In April 2002, Planning Permission Reference 02/50241/007 approved the variation of Condition 21 to widen the range of goods that could be sold. The decision notice stated that this permission only related to Condition 21, with all other conditions of the original permission remaining in place.

Planning Permission Reference APP/13/01233 ("the 2014 permission") was granted on 5 February 2014 for the removal of Condition 21 on the basis that the units are now located within the Town Centre boundary. The permission was issued subject to a single condition referencing the Location Plan. The permission did not contain any reference to the conditions of the original permission, nor seek to retain any of them. A copy of this permission is included with this application.

The 2014 permission is therefore the operative planning permission for the Site and supersedes all previous planning permissions relating to Unit 7. The permission does not include any conditions precluding the subdivision or amalgamation of units, or any restrictions on opening hours. Nor does the permission contain any conditions removing the flexibility within Class E, i.e. stating that it must remain in retail use. Therefore, the lawful use of the units is unrestricted Class E.

On 6 July 2023, an application for a Lawful Development Certificate for a Proposed Use of Units 5 and 7 (also referred to as Units 3 and 4) as a Gym or Café within Use Class E was approved (Ref. APP/23/00145). This permission formally established that the use of the Unit 7 as a gym use would be lawful.

Legislative Background and Lawful Nature of the Proposed Development

Section 192(a) of the Town and Country Planning Act 1990 (as amended) states that an application for a Certificate of Lawfulness of Proposed Use or Development should be submitted if '*... any person wishes to ascertain whether... any proposed use of buildings or other land is lawful*'.

In this case, the Applicant wishes to certify that the proposed use of the floorspace at Unit 7 as a gym could operate on a 24-hour basis.

The use of Unit 3 as a gym has already been established by the Lawful Development Certificate approved in July 2023 (Ref. APP/23/00145). As above, the approved description is as follows:

"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)."

This Certificate therefore certifies that the use of Unit 7 as a gym would be lawful. Furthermore, there are no restrictive conditions attached to this use, as per the extant 2014 permission for the Site. This permission enabled flexible use within Class E for the Site, and did not include any conditions precluding restrictions on hours of operations, or noise level emissions. The original permission for the Unit, Planning Permission Ref. 88/05241, also contained no conditions restricting the opening hours of the Unit.

Definition of Development

Section 55 of the Act sets out the definition 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.

The legislation clarifies that the lawful operation proposed in this application would not constitute development, therefore planning permission is not required.

Lawful Nature of the Proposed Operation

It is clear the established use of the premises at Unit 7 Wellington Retail Park is Class E, including the proposed gym use. This is confirmed by the planning history, specifically the recent Lawful Development Certificate, which formalises the proposed Use as a gym.

As established within the Lawful Development Certificate, confirmation was provided that the use of the Site as a gym is lawful. This was consistent with Part (2) f) of Section 55 of the Act, which set 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 enabled use of the units as a gym, which falls within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Furthermore, there are no conditions on either the original permission from 1988 and later 2014 Permission, which is the operational consent related to the premises, that restrict hours of operation or noise levels at the Site. Therefore, a 24-hour operation of a gym would not breach any planning condition or limitation.

We therefore respectfully request that the Council issues a Certificate, under Section 192(1)(a) of the Act, confirming the above.

SUMMARY AND CONCLUSIONS

This application seeks to certify that the proposed 24-hour opening and use of Unit 7 as a gym within Use Class E would be lawful. As set out in detail above, a Lawful Development Certificate was issued in 2023 confirming the proposed use as a gym for Unit 7 and Unit 5 as lawful. Further, as there are no restrictions on operating hours or noise levels, the ability to open 24-hours per day would be lawful. A Certificate of Lawfulness should therefore be granted accordingly.

We would be grateful if the Council could confirm that our application is completed and will be validated shortly. However, if you do have any queries or require any additional information, please do not hesitate to contact Lucy Turner (lucy.turner@montagu-evans.co.uk) or Tommy Cooney (tommy.cooney@montagu-evans.co.uk) at these offices in the first instance.

Yours faithfully,



Montagu Evans LLP

Enc.