

**WELWYN HATFIELD BOROUGH COUNCIL
ASSISTANT DIRECTOR (PLANNING)**

DELEGATED APPLICATION

Application No: 6/2022/2660/LAWP
Location: Units 40-45 The Galleria Outlet Shopping Centre Comet Way Hatfield AL10 0XR
Proposal: Certificate of lawfulness for the change from Class E(a) to Class E(d). Intended hours of operation would be 24 hours 7 days a week.
Officer: Ms Elizabeth Mugova
Recommendation: Granted

6/2022/2660/LAWP

Context	
Application Description	Certificate of lawfulness for the change from retail Class E(a) to indoor gym Class E(d).
Relevant Planning History	<p>Application Number: S6/1987/0075/FP Decision: Granted Decision Date: 06 April 1987 Proposal: Retail development with associated leisure</p> <p>Application Number: 6/2022/2661/FULL Decision: Pending Decision Date: Pending Proposal: Proposed external alterations to provide new building access</p>
<p>The main issues are:</p> <p>Whether the proposed works are permitted development by virtue Of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended</p> <p>Town and Country Planning (Use Classes) Order 1987 (as amended)</p>	
Discussion	
<p>The Business and Planning Act 2020 introduced a significant change to the Use Classes Order. The new regulations (effective from 1 September 2020) introduce a broad category of 'commercial, business and service' uses, known as Class E. The existing Classes A1 to A5, B1, D1 and D2 are revoked. The new Class E effectively amalgamates the former Class A1 (retail), Class A2 (financial and professional services), A3 (restaurants/cafes), B1 (offices) along with health/medical uses, crèches, nurseries (all formerly D1 uses) and indoor sports/recreation (formerly D2 use). Permission is not required to change between any of the uses within the new Class E.</p> <p>This application seeks confirmation through a certificate of lawful development that a change of use of the site from a use falling within E(a) (retail) to a use falling within E(d) (indoor gym) does not require planning permission.</p>	

Historic planning records at this site show that Units 40 – 45 granted under S6/1987/0075/FP have an established retail use Class E(a). The proposed use is for an indoor gym which falls under Class E(d).

A change of use between Class E(a) and Class E(d) would not constitute an act of development requiring planning permission by virtue of section 55(2)(f) of the Town and Country Planning Act (1990) which states that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(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.

This is also set out in Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

It's been indicated on the 'Application Form' that the intended hours of operation would be 24 hours 7 days a week. However, hours of operation are not a material planning consideration under this type of application.

Conclusion

The proposed change of use from retail Class E(a) to an indoor gym would fall under Class E(d) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and is considered to be lawful.

Conditions:

1. The proposed use as an indoor gym would fall under Class E(d) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

DRAWING NUMBERS

2. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
001		Site and Block Plan	22 November 2022
002		Existing Floor Plan	22 November 2022
003		Proposed Floor Plan	22 November 2022
004		Existing And Proposed Elevations	22 November 2022

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

Determined By:

Mr Mark Peacock
17 January 2023