

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2078/0E1
2.	<b>Proposed Development:</b>	LAWFUL DEVELOPMENT CERTIFICATE FOR PROPOSED USE AS A 24-HOUR GYM. THIS IS AN ALTERNATIVE USE WITHIN CLASS E AND IS NOT CONSIDERED TO BE A MATERIAL CHANGE OF USE. PLEASE SEE COVERING LETTER FOR FURTHER INFORMATION.
3.	<b>Location:</b>	UNIT 3, BRIDGES RETAIL PARK, FLATT WALKS, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp;Policy</b>	<p>Neighbour Notification Letter: NO</p> <p>Site Notice: NO</p> <p>Press Notice: NO</p> <p>Consultation Responses: See report</p> <p>Relevant Planning Policies: See report</p>
7.	<p><b>Report:</b></p> <p><b>Site and Location</b></p> <p>This application relates to Unit 3, Bridges Retail Park, Flatt Walks in Whitehaven. The unit is currently empty having previously been utilised as a Carpet Right retail store. The use falls within Use Class E of the Use Classes Order.</p> <p><b>Relevant Planning History</b></p> <p>Non food retail units plus drive through fast food outlet, staff and customer parking and demolition of existing building, approved in March 1999 (application reference 4/98/0914/0</p>	

relates);

Erection of palisade fence, pedestrian gate and vehicle access gate to rear of service yard, approved in October 2007 (application reference 4/07/2570/0 relates);

5 no. retail units with associated customer and staff parking (reserved matters), approved in October 2000 (application reference 4/00/0606/0 relates);

Alterations to form new means of escape, approved in February 2004 (application reference 4/04/2039/0 relates).

### **Proposal**

This application seeks a lawful development certificate for a proposed change of use of the building from a retail unit to a 24 hour gym.

### **Relevant Planning Legislation**

Town and Country Planning Act 1990 – Section 192 as amended by Section 10 of the Planning and Compensation Act 1991;

The Town and Country Planning (Use Classes) Order 1987.

### **Consultation Responses**

There is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

### **Representations Received**

Whitehaven Town Council – No objections.

Twenty-three letters of objection have been received raising the following concerns:

- The area is busy with traffic and this would be worsened by a gym;
- There are many gyms within Whitehaven and another is not needed;
- There is insufficient parking to accommodate a gym;
- The gym will give rise to anti-social behaviour within the vicinity.

Two letters of support have also been received.

### **Legal Considerations**

For the purposes of clarification a Lawful Development Certificate enables applicants to establish whether a proposed development is lawful for planning purposes. In this instance it is claimed that the proposed use does not constitute a material change of use which would require planning permission.

### **Assessment**

A lawful development certificate enables applicants to establish whether a proposed or existing development is lawful for planning purposes. In this instance it is claimed that the established use of the site subject to this application falls within the same use class as the proposed use as a gym and therefore does not require planning permission for a material change of use.

The following evidence has been submitted to support this lawful development certificate:

- Application Form;
- Site Location Plan;
- Planning Statement.

Based on the evidence submitted, on the balance of probability and based on the facts of the case and the relevant planning legislation it is reasonable to conclude that the proposed use of the site falls under Use Class E. It is therefore considered that the proposed use would not constitute a material change of use and therefore Planning Permission is not required.

Although objections have been received from local residents in relation to this Lawful Development Certificate, the objections mostly relate to concerns about competition for local gyms which is not considered to be a planning matter.

It is considered that there is sufficient parking on site for the use and that a gym is unlikely to create more potential footfall than the use as a retail store.

On this basis it is appropriate for a lawful development certificate to be granted in this case.

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| 8. | <p><b>Recommendation:</b></p> <p>Approval of Certificate of Lawfulness</p> |
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<b>Case Officer: Sarah Papaleo</b>	<b>Date : 24/04/2025</b>
<b>Authorising Officer: N.J. Hayhurst</b>	<b>Date : 29/04/2025</b>
<b>Dedicated responses to:- N/A</b>	