

## **DELEGATED APPLICATION REPORT**

Ward: Abbey

App Ref: PL/26/0546 Lawful development: Proposed use

Address: BROAD STREET MALL, BROAD STREET, READING

Proposal: Use within Class E for indoor, sport, recreation and fitness on a 24 hour basis.

Applicant: Abbie Scudamore

Received date: 23 April 2026

Target Decision date: 17 July 2026 (agreed extension of time)

**Case Officer: Anthony Scholes**

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### **1. SITE DESCRIPTION**

The application site comprises a ground floor unit at 15-17 Oxford Road, formerly Trespass Clothing and Outdoor, and most recently DAM health (Use Class E). In addition to the ground floor, the first floor component of the application, being significantly larger than the ground, is part of the former 'Wilko' store (Use Class E).

### **2. PROPOSAL AND SUPPORTING INFORMATION**

The application, as submitted seeks a certificate of lawfulness for a proposed use of the ground and first floor area for Class E – Indoor Sport, recreation and fitness on a 24 hour basis, for the use of 'The Gym' Group. The Gym currently operates from a nearby unit within the Broad Street Mall complex, with ground floor access via St Mary's Butts.

### **3. CONSULTATIONS**

The following were consulted:

- Legal Consultations – Informal response given, given no restrictions by condition, no objection.

### **4. EQUALITIES ACT 2010**

In determining this application, the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore, in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

### **5. RELEVANT PLANNING HISTORY**

#### *Application Site*

The Broad Street Mall was constructed in the 1960s, opening in 1971 as The Butts Centre. Since then, there have been a large number of planning applications related to the site. There does not appear to be any additional applications relevant to the two units in question.

s.13/RGS/DRB (42017A) - The erection of shops, stores, offices and off-loading facilities on the site of the store formerly owned by Holmes the Furnishers Limited in St. Mary's Butts, Reading and the part of the Commercial Centre of the south thereof. Approved 11 November 1969 (Implemented)

#### *3 St Marys Butts – Existing 'The Gym' Unit*

PL/13/0216 (FUL) - Change of use from A1 to D2 (Health and Fitness) with a new mezzanine floor. Approved 16 April 2013 (Implemented)

### *Wider Site Context*

PL/24/0137 - Part-demolition of existing retail units, car park and service areas, demolition and rebuild of car park ramp, and construction of a residential-led, mixed-use development fronting Queens Walk and Dusseldorf Way, including all necessary enabling and alteration works required.

## **6. LEGAL AND PLANNING POLICY CONTEXT**

### **Government Guidance**

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and if so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate. However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it.

The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

## **7. APPRAISAL**

### *Use as Class E (d)*

The proposal would seek to introduce a Class E(d) indoor sport, recreation or fitness use into vacant units, and link them through an internal staircase/lift, as well as fit out the gym in a larger premises than the existing 'The Gym'. It would provide an entrance to the gym entrance at ground floor level (83m<sup>2</sup>) and would also seek to use the upper floor (1517.5) as the main gym and workout area, with associated facilities. Any external alterations, and signage would require separate planning and/or advertisement consent.

Internal alterations do not require planning permission providing that the use is ancillary to the existing use of the building, and that there are no restrictive conditions in place on previous planning permissions.

Confirmation is sought as to the lawfulness of the proposed use as Class E (d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink).

Under The Town and Country Planning (Use Classes) Order 1987, as amended on 1 September 2020 introduced a 'new' and wider use Class E, which sought to minimise the changes of use applications required within centre type uses. Although there may be some nuance to that provision, the use Class E now combines various retail, office, and recreation uses into one category which includes:

### *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 [F51 or use as a swimming pool or skating rink], 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.*

The original permission of the whole mall was for shops, stores, offices and off-loading facilities and the previous use of the specific units were, 'Wilko' shop (E (a) use) at first floor and at ground floor recently DAM Health (E (e) use), and formerly Trespass (E(a) use). The proposed E (d) use would be within the permitted use class, and no permissions have restricted this permitted use.

#### Hours of Operation

It is noted that the applicant has sought confirmation that the gym may operate on a 24-hour basis. It is noted that the approval for the existing 'The Gym' did not include any provision of approved hours of operation, and indeed it currently operates on a 24-hour basis. The site is also located within Reading Town Centre, and is part of a major shopping complex which, does not currently include any residential above, below, or adjoining the proposed use area. In addition, the nearby application for residential development on the southern portion of Broad Street Mall (PL/24/0137) is not located in immediate proximity to or adjoining to that proposal.

However, the certificate of lawfulness as is proposed does not allow any assessment of the merits of the proposal, or whether there would be impacts (or not) from the proposal. It only considers whether the change of use, and the hours of operation are lawful. The question, therefore, would be whether there would be a restriction on the use of a 24-hour Class E unit. The relevant planning permission for the application site appears to be the 1969 permission for the entire centre. The permission, dated 11 November 1969, included 8 conditions, none of which included any restrictions upon opening hours. There would also not appear to be any relevant planning applications for either the ground floor unit or the first floor unit which otherwise restricts hours of operation. As such, it would appear that due to the lack of restriction upon opening hours, that the 24-hour operation of 'The Gym' would be lawful.

## **8. CONCLUSION**

Given the proposal is within Class E, and is proposed within two separate units which are lawfully able to be used for Class E use, and there are no restrictions upon opening hours for the centre. The proposed use, including hours of operation would be lawful.

## **9. RECOMMENDATION**

Grant Certificate.