

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) Section 191/192**

**DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF LAWFUL  
DEVELOPMENT**

Reference no.: 2024/CL/92102/W

Site: BigBox Leisure Club, Wakefield Road, Fenay Bridge,  
Huddersfield, HD5 0AL

Description: Certificate of lawfulness for proposed change in  
opening hours

Case Officer: Charlotte Hancock

**Decision Reference: PROPOSED USE GRANT**

**I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

Kevin Walton

**AUTHORISED OFFICER**

**Date 01-Oct-2024**

## **Site Description**

BigBox Leisure Club is a large, detached building made of brick, with a corrugated metal roof. The building is located within a commercial estate, and benefits from a large car park to the front of the building. The site is screened by vegetation to the east, south and west.

The current use of the site is a fitness centre consisting of a gym, pool, climbing wall, spa and café.

## **Application Proposal**

The application is for a certificate of lawfulness for proposed change in opening hours. The onus is on the applicant to provide evidence that the operation of the facility for 24 hours a day is lawful.

In this instance, the Applicant has stated there are no planning conditions attached to the original and additional planning permissions which may have controlled the hours of operation of the unit and therefore the site can lawfully operate for 24 hours a day without limitation. They state that the unit is currently in operation from 5am-11pm on Monday to Friday and 7am-10pm Saturday and Sunday.

It is noted that within the applicants supporting statement, they include a section which relates to the lawful use of the premises; explaining that the lawful use of the premises on the 31<sup>st</sup> August 2020 was Use Class D1 and D2. They explained that a series of changes to the Use Class Order meant that the Use Classes D1 and D2 were revoked and replaced with Use Class E. They explained that following purchase of the premises, the unit is operating within Use Class E(d). In this instance, the application seeks to establish whether the proposed use of the premises for 24 hours a day is lawful or not. Therefore, this application will be solely focusing on the operational hours of the premises, and not the use of the premises. However, in order for the hours of operation to be lawful, the use would need to be considered lawful.

## **History of negotiations/amendments received**

No negotiations have taken place and no amended plans received.

## **Relevant Planning History**

98/93106- Erection of two-storey exercise centre and rehabilitation clinic with car parking facilities- Conditional full permission

2000/91549- Change of use from bistro to childrens nursery at existing fitness centre- Withdrawn.

2000/92183- Change of use of part of fitness centre to childrens nursery and creche- conditional full permission

2001/91982- Singley storey extension to side of existing fitness centre- conditional full permission

2023/92026- Prior notification for demolition of building- Demolition details approved

## **Consultations**

This is an application for a Lawful Development Certificate and, for this reason, no consultations are necessary.

## **Assessment:**

The main consideration for this application is whether the use of the fitness centre for 24 hours a day is lawful.

Planning permission 98/93106 for “erection of two-storey exercise centre and rehabilitation clinic with car parking facilities”, hereafter known as ‘the original planning permission’ was implemented at the site and thereafter the unit operated as Total Fitness. This planning permission was not subject to any conditions restricting the hours of operation of the premises.

Following this application, in 2000, permission was granted for “change of use of part of fitness centre to childrens nursery and creche” under reference number 2000/92183. The applicant states that this permission was then implemented and part of the unit operated as Les Enfants Day Nursery, whilst the other part remained in operation as Total Fitness. Again, this planning permission was not subject to any conditions restricting the hours of operation of the premises.

The applicant continued to state that after purchase by BigBox Leisure Club, the site has been in operation solely as a leisure facility falling under class E(d) of the Use Class Order. The local planning authority has no evidence to demonstrate the use does not now fall in Class E of Schedule 2 of the Use Classes Order 1987 (as amended).

## **Conclusion**

The site is not subject to any planning conditions via the original planning permission or subsequent permissions which restrict the operational hours of the premises. Therefore, the use of the site for 24 hours a day is lawful and this application is recommended for approval.

## **Recommendation:**

**Decision Authorisation - Delegated Powers Application Number:** 2024/92102

**Officer Recommendation:** Approve certificate

The proposed use of the site as defined by Class E of Schedule 2 of the Use Classes Order 1987 (amended) for 24 hours a day would be lawful for the purposes of planning control, as there are no planning conditions which restrict the hours of operation of the site.

Plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan- Former Total Fitness	W 369/02	-	25/07/24
Location Plan- Big Box Leisure Club	23.025.008	-	25/07/24
Decision Notice	98/93106	-	25/07/24
Decision Notice	2000/92183	-	25/07/24
Floor Plan	LE01B	-	25/07/24

Supporting Statement	L001v1	-	25/07/24
Application Form	-	-	25/07/24

**Report Dated:**

30/09/24



