


**RECORD OF EXERCISE OF DELEGATED AUTHORITY BY OFFICER PURSUANT TO REGULATION 13 OF THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012 & THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

<p><b><u>SUBJECT OF DECISION</u></b></p> <p>Certificate of proposed lawful use from Class E(a) the display or retail sale of goods, other than hot food, principally to visiting members of the public (the existing use) to Class E(d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, or use as a swimming pool or skating rink, principally to visiting members of the public on land at Carpetright Plc, Newtown Road, Nuneaton, Warwickshire CV11 4FN.</p>	
<p><b><u>DECISION REFERENCE</u></b></p> <p>DO/32/2025 (MW)</p>	<p><b><u>SOURCE OF AUTHORITY AND REFERENCE</u></b> (i.e. Committee/ Constitution/Minute No. etc.</p> <p>Part 3E.3 a)</p>
<p><b><u>DATE OF DECISION</u></b></p> <p>26 August 2025</p>	<p><b><u>DECISION MAKER (Name and Job Title)</u></b></p> <p></p> <p>Matt Wallbank <u>Assistant Director – Democracy &amp; Governance</u></p>

## RECORD OF THE DECISION

### a) The issue

Under section 192 of the Town and Country Planning Act 1990, an applicant can ascertain whether any use and or operations which are to be carried out in, on, over or under land are lawful. This can be done by applying for a certificate of lawfulness.

This application is seeking to ascertain that the proposed change of use from Use from Class E(a) for the display or retail of goods to Class E(d) for indoor sport, recreation or fitness is lawful without the requirement of a planning application.

Section 55(1) refers to the Town and Country Planning Act 1990, which defines "development" in planning law. It includes:

- Building operations (construction, demolition, or alteration)
- **Material changes in use of land or buildings**

Section 55(2)(f) states that in the case of buildings which are used for a purpose of any class specified by the Secretary of State, the use of the building for any purpose within the same class shall not be taken for the purposes of The Act as amounting to development.

The Town and Country Planning (Use Classes) Order 1987 is the statutory instrument which specifies the various 'Use Classes'. Section 3(1) states that subject to the provision of the Order, where a building is used for a purpose of any class specified, the use of that building for any other purpose of same class is not to be taken to involve development of the land.

Planning application reference: 041074

### b) The Decision

The Certificate is to be issued as it is considered the existing use of the retail sales of goods fall within Use Class E, as does indoor sport, recreation or fitness. This is a matter of fact and as a result of this, given the change of use within a Use Class is permitted development, the change of use from a retail unit to a gym is permitted development not requiring a formal planning application.

## REASON FOR THE DECISION

The assessment is a matter of law, fact and degree. The applicants have submitted proposals and planning statement that it is determined demonstrates the change of use is permitted as it is within the same use class pursuant to the Town and Country Planning (Use Classes) Order 1987 as amended.

## ALTERNATIVE OPTIONS CONSIDERED AND REJECTED IN MAKING THE DECISION

Reject the application. This was not an option in view of the submitted proposals.

<u>WARD RELEVANCE</u>
St Mary's
<u>FINANCIAL AND BUDGET IMPLICATIONS</u>
None
<u>CONSULTATION UNDERTAKEN WITH MEMBERS/OFFICERS</u>
Consultation has been undertaken with the Legal Services Team and the Planning Services Team.
<u>ANY CONFLICT OF INTEREST DECLARED BY ANY MEMBER CONSULTED</u>
None
<u>IN RESPECT OF ANY DECLARED CONFLICT BY A CABINET MEMBER, ANY DISPENSATION GIVEN BY THE HEAD OF PAID SERVICE</u> (Note if the decision is a non-executive decision, no dispensation can be given).
Not applicable
<u>EQUALITIES IMPLICATIONS</u>
None
<u>HUMAN RESOURCES IMPLICATIONS</u>
None
<u>FINANCIAL IMPLICATIONS</u>
None
<u>HEALTH EQUALITIES IMPLICATIONS</u>
None
<u>SECTION 17 CRIME &amp; DISORDER IMPLICATIONS</u>
None
<u>RISK MANAGEMENT IMPLICATIONS</u>
None
<u>SME (SMALL/MEDIUM ENTERPRISES) &amp; LOCAL ECONOMY IMPLICATIONS</u>
None

ENVIRONMENTAL IMPLICATIONS

None

LEGAL IMPLICATIONS

This decision complies with Section 192 of the Town & Country Planning Act 1990.

ANY OTHER COMMENTS

None

**PLEASE RETURN TO THE MONITORING OFFICER AS SOON AS A DECISION IS  
MADE OR AS REASONABLY PRACTICABLE THEREAFTER**