

# Development Management Sub Committee

Wednesday 28 August 2013

**Application for Certificate of Lawfulness (proposed)  
13/02270/CLP**

**At 20 Westbank Street, Edinburgh, EH15 1DR**

**Change of use from Bowling Centre to a Gymnastics and  
soft play centre.**

Item number	4.8
Report number	
Wards	A17 - Portobello/Craigmillar

## Links

[Policies and guidance for  
this application](#)

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# Executive summary

## **Application for Certificate of Lawfulness (proposed)**

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### Summary

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The proposal is lawful in under Section 151 of the Town and Country Planning (Scotland) Act 1997 as both the existing use as a bowling centre and the proposed use as a gymnastics and soft play centre fall within this Use Class 11 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, and as such the proposed change of use does not constitute development under S26 of the 1997 Planning Act.

### Recommendations

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It is recommended that this application be Granted subject to the details below (in section 3 of the main report).

### Financial impact

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There are no financial implications to the Council.

### Equalities impact

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The application has been assessed and has no impact in terms of equalities or human rights.

### Sustainability impact

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This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

### Consultation and engagement

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#### **Pre-Application Process**

There is no pre-application process history.

#### **Publicity summary of representations and Community Council comments**

49 representations were received consisting of 34 objections and 15 letters of support. All but one objection were non-material as they raised issues concerning the planning

merits of the proposal. The one material letter of objection claimed that the proposed use and the existing use are not similar.

## **Background reading / external references**

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- To view details of the application go to
- [Planning and Building Standards online services](#)

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## **1. Background**

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### **1.1 Site description**

The proposal site is an existing leisure unit in use as a bowling centre located on the south east side of Westbank Street. The unit is located in an area of mixed use with residential and leisure uses located immediately adjacent. The Portobello Promenade bounds the site to the north east.

### **1.2 Site History**

There is no relevant planning history for this site.

## **2. Main report**

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### **2.1 Description Of The Proposal**

The proposal is to change the unit from a bowling centre to a gymnastics and soft play centre. No external alterations are proposed.

### **2.2 Determining Issues**

On the facts of the case and the planning law applicable to the site, is the specified use, operational development or failure to comply with a condition, lawful?

### **2.3 Assessment**

To address these determining issues, the Committee needs to consider whether:

(a) the proposal is lawful under Section 151 of the Town and Country Planning (Scotland) Act 1997.

(a) To address this issue, the Committee needs to decide purely whether the use or operations described in the application would be lawful if instituted or begun at the time of application. The planning merits of the proposal are non-material in the determination.

Class 11 (Assembly and leisure) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 includes use as a—

- (a) cinema;
- (b) concert hall;
- (c) bingo hall or casino;
- (d) dance hall or discotheque; or
- (e) swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreation, not involving motorised vehicles or firearms.

Both the existing use as a bowling centre and the proposed use as a gymnastics and soft play centre fall within this use class 11. The proposed use does not constitute development under S26 of the 1997 Planning Act as the use of any part of the business, or other land, for any purpose of the same class is excluded from the definition of development. In addition there are no restrictions on the particular type of leisure use attached to the original express grant of planning consent.

Due to the significant level of public interest, with 49 representations received, a Committee decision is required.

It is recommended that the Committee request that a Certificate of Lawfulness is issued.

### 3. Recommendations

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3.1 It is recommended that this application be Granted.

#### Statutory Development

**Plan Provision** None.

**Date registered** 14 June 2013

**Drawing numbers/Scheme** 01,

Scheme 1

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Acting Head of Planning and Building Standards



# Appendix 1

## Consultations

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No consultations undertaken.

## Location Plan

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