

Ref.: TC/2003

16 February 2026

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By e-mail: planningeast@somerset.gov.uk

Application: 2026/0070/CLE

Site: Gym The Amulet 7 Market Place Shepton Mallet Somerset

Proposal: Application for an existing lawful development certificate for use of a gymnasium.

Remit:

Theatres Trust is the national advisory public body for theatres. We were established through the Theatres Trust Act 1976 'to promote the better protection of theatres' and provide statutory planning advice on theatre buildings and theatre use in England through The Town and Country Planning (Development Management Procedure) (England) Order 2015, requiring the Trust to be consulted by local authorities on planning applications which include 'development involving any land on which there is a theatre'.

Comment:

This application for a Lawful Development Certificate has come to the attention of Theatres Trust. It seeks to regularise the use of the first floor of the Amulet as a gymnasium (Class E).

Theatres Trust

22 Charing Cross Road, London WC2H 0QL

Telephone 020 7836 8591 **Email** info@theatretrust.org.uk **Website** theatretrust.org.uk

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Chair Dave Moutrey OBE **CEO** Joshua McTaggart

Trustees Vicky Browning OBE, Anna Collins, James Dacre, Liam Evans-Ford, Stephanie Hall, Annie Hampson OBE, Tracy Ann Oberman, Lucy Osborne, Saratha Rajeswaran, Truda Spruyt, Michèle Taylor MBE, Katie Town

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The onus is on the applicant to demonstrate that the stated use has been carried out continuously for a period exceeding the time limit for enforcement action, which is ten years. In their Planning Statement they state the gym has been operating for around thirteen years. They have provided evidence of building insurance for a period between 2013 and 2019.

No evidence has been provided covering usage beyond 2019.

Whilst we know there to be a current operator, it is clear the previous gym use ceased at a time prior to 5th February 2019. This is demonstrated by the schedule of dilapidations dated 5th February 2019 which shows the application site unit to be empty. At that stage all machinery had been removed.

The current gym opened on 6th January 2020. There are social media posts available to view from the current operator dating from the time of their opening and immediate period beforehand. This means there was a considerable break in continuous use. The current use commenced formally in early January 2020 with a period of preparation which most likely commenced towards the end of 2019.

The continuous use of this unit has therefore been in place for a period of just over six years. This is considerably below the threshold required for a Lawful Development Certificate to be issued for this purpose.

Furthermore, paragraph 10 of planning guidance on 'When is permission required?' (2023) with reference to Article 3(6) of the The Town and Country Planning (Use Classes) Order 1987 as amended states that not all uses of land or buildings fit within the use classes order and are therefore Sui Generis. This includes theatres, which is the existing use of the building. Where land or buildings are used for different uses which fit into more than once class the overall use of the building is considered a mixed use. This is also Sui Generis. Whilst the gym operates independently, floorplans from the previous planning application at this site show it to be accessible from other parts of the building. Therefore if the council is minded to determine that despite the evidence referred to above this gym has been in continuous operation for a period exceeding ten years, a Lawful Development Certificate should in fact be issued for a mixed use including theatre and gym (Sui Generis) rather than for a gym (Class E(d)). We would note the ground floor of this building has been open during 2025 for the purposes of performance and events with a 60-seat auditorium created within the foyer.

The applicant has acknowledged through their submission that formal change of use has not been granted for the current gym. If this were to be considered a distinct and

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separate unit for planning purposes, planning enforcement action by the council should instead be considered.

On the grounds of this application failing to meet the minimum threshold of ten years of continuous use, and the use of the building falling outside of what the applicant is claiming for on account of its mixed use, this application should be refused.

Please contact us if we may be of further assistance or should you wish to discuss these comments in further detail.



Tom Clarke MRTPI

National Planning Manager

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