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| Delegated Report | | Analysis sheet | Expiry Date: | 29/09/2023 |
| | | N/A | Consultation Expiry Date: | N/A |
| Officer | | | Application Number(s) | |
| Sam FitzPatrick | | | 2023/2362/P | |
| Application Address | | | Drawing Numbers | |
| 183 Drury Lane London WC2B 5QF | | | Refer to decision notice | |
| PO 3/4 | Area Team Signature | C&UD | Authorised Officer Signature | |
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| Proposal(s) | | | | |
| Use of basement and ground floor tattoo studio as retail (Class E). | | | | |
| Recommendation(s): | | Grant Certificate of Lawfulness | | |
| Application Type: | | Certificate of Lawfulness (Proposed) | | |
| Conditions or Reasons for Refusal: | | Refer to Draft Decision Notice | | |
| Informatives: | | | | |

Site Description

The host building is a two-storey building with a basement level located on the northern side of Drury Lane, at the junction with Stukeley Street. The application concerns the ground floor and basement level, which is currently unoccupied but has previously been occupied by a tattoo parlour. The upper floor is in residential use.

The building lies within the Seven Dials Conservation Area and is considered a positive contributor, though is not listed.

Relevant History

Application site

2020/4550/P – Change of use of basement and ground floors from tattoo studio (Sui-Generis) to take-away (Sui-Generis), to include extractor flue to side elevation. **Refused 22/10/2021.**

Reasons for refusal:

- The proposed development would result in an overconcentration of food, drink, and entertainment uses that would cause harm to the local residential amenity;
- The proposed extract flue would represent an incongruous addition to the building and Conservation Area;
- The applicant failed to demonstrate that the equipment would not cause noise disturbance and cause harm to the local residential amenity;
- The proposal would result in an additional hot food takeaway unit located in close proximity to a school that would have a harmful impact on public health.

2010/4133/P – Change of use from retail (Class A1) to tattoo studio (Sui Generis) at basement and ground floor level. **Granted 21/09/2010.**

Other sites

2023/1746/P – Use of ground floor as a nail bar (Class E). **Certificate of lawfulness granted 30/05/2023.**

2022/4999/P – Use of the ground floor as a nail / beauty salon (Class E) with service rooms and ancillary storage. **Certificate of lawfulness granted 16/02/2023.**

2022/4105/P – Use of basement and ground floor as tattoo salon (Class E). **Certificate of lawfulness granted 30/01/2023.**

2022/1860/P – Use of ground floor of premises as a nail salon within Class E of the Use Classes Order 1987, as amended. **Certificate of lawfulness granted 02/08/2022.**

2022/0472/P – Certificate of Lawfulness (proposed) for the use as a tattoo & piercing shop with service rooms and ancillary storage. **Certificate of lawfulness granted 17/08/2022.**

2020/4682/P – Use of ground floor unit as a Tattoo Studio with ancillary retail. **Certificate of lawfulness granted 14/01/2021.**

2020/4560/P – Use of ground floor retail unit at tattoo parlour. **Certificate of lawfulness granted 26/01/2021.**

Relevant legislation

The Town and Country Planning Act 1990

The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Assessment

A certificate of lawfulness for proposed development has been submitted to establish whether the use of the basement and ground floor at 183 Drury Lane as retail for commercial, business, and service use (Class E) would be lawful.

The planning history and street photography set out the use of the property over recent years. Most recently, the property was refused permission in 2020 to change use to a take-away. Before this, permission was granted in 2010 for the ground and basement levels to change use from retail (which was Class A1 at the time) to a tattoo studio, which at the time was Sui Generis use. As such, the site has been in use as a tattoo studio under the name of 'Black Garden Tattoo' since approximately 2010, though it appears to have been vacant for the past few years. Street photography confirms this use in the pictures below; the upper picture is dated July 2019 and shows the unit still in use, while the lower picture is dated December 2020, and shows the unit apparently vacant, which is the earliest street photography shows the site as such.



The use of a unit as a tattoo salon has been deemed to fall within Class E, due to planning precedent such as the appeal decision APP/V5570/C/21/3277829, which judged nail salons to fall within Class E9(c)(iii). A tattoo salon is considered to be a similar type of use that would also be considered to fall within Class E(c)(iii) – 'other services which it is appropriate to provide in a commercial, business, or service locality'. The planning history at the site, and in particular the previous decision granting change of use to a tattoo parlour (2010/4133/P), did not include any specific conditions restricting the use of the premises. Therefore, although the unit was previously considered to fall within 'Sui Generis' use class, it would now be considered to fall under Class E.

The applicant's evidence to substantiate the lawful use is reference to the site's planning history and street photography. On the basis of the site history, the local planning authority agrees that the existing lawful use of the ground floor which was previously Sui Generis would now be within Class E. The National Planning Policy Guidance states that '*movement from one primary use to another within the same use class is not development and does not require planning permission*'. Therefore, movement between Class E uses at the premises would not be a material change of use under the amended GPDO, and as such would not constitute development or require planning permission.

Recommendation: Grant Certificate of Lawful Development.