

LDC (Proposed) Delegated Report		Analysis sheet N/A / attached	Expiry Date: Consultation Expiry Date:	15/01/2018 <i>n/a</i>
Officer John Diver		Application Number(s) 2017/6485/P		
Application Address 66 Red Lion Street London WC1R 4NA		Drawing Numbers <i>See draft decision notice</i>		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Certificate of Lawfulness for proposed use for Acupuncture/Therapy clinic with minor internal alterations.				
Recommendation:	Grant certificate			
Application Type:	Certificate of Lawfulness (Proposed)			
Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Site Description				
<p>The site is located on the east side of Red Lion Street with Eagle Street to the north and High Holborn to the south. The site comprises a four storey with basement mid-terrace property. The property is not listed but is located within the Bloomsbury Conservation Area.</p> <p>The property is currently in use as a beauty salon (Sui Generis) from basement to second floor levels with some ancillary staff accommodation at third floor level. Planning permission was granted for a partial change of use of the upper floors of the premise into a self-contained residential unit, however this permission was not implemented. This permission does not expire until the 23rd March 2020.</p>				
Relevant History				
<p>The following planning history for the application property is of relevance to the assessment:</p> <p>2017/0026/P: Planning permission was <u>granted</u> subject to s106 legal agreement on the 23/03/2017 for the 'Change of use from beauty salon to C3 at 1st – 3rd floor levels'</p> <p>2011/2063/P: Planning permission was <u>granted</u> on the 15/07/2011 for the 'Change of use of the first, second and third floor levels from office (Class B1) to alternative uses for either office (Class B1) or beauty salon (Sui Generis)'</p> <p>8800507: Planning permission was <u>granted</u> on the 01/02/1989 for the 'Change of use of ground floor from a retail (A1) use to an employment agency (A2)'</p>				

8500312: Planning permission was granted on the 03/04/1985 for the 'Change of use of first and second floors from beauty salon to offices'

26644: Planning permission was granted on the 17/10/1978 for the 'Change of use of first and second floors from offices to beauty salon'

Relevant policies

The scheme can only be assessed against the relevant planning legislation which is the Town and Country Planning Act 1990, the Town and Country Planning (General Permitted Development) (England) Order 2015 ("GPDO") and the Town and Country Planning (Use Classes) Order 1987.

This lawful development certificate is to determine whether the proposed use represents a material change of use from the existing use. If it were found that the proposed change would not constitute a material change of use, then this change would be 'permitted' and hence could go ahead without the specific grant of planning permission from the local planning authority. An assessment of its planning merits as to its acceptability under current policies is therefore not relevant or possible here, as this is purely a legal determination.

Assessment

1. Proposal

1.1. The applicant seeks a certificate of lawfulness for use of the unit as an 'acupuncture/alternative therapy clinic'. The applicant has described the proposed use as an alternative therapy clinic, offering acupuncture treatments, massages as well as herbal therapy consultation and sales. The existing ancillary staff accommodation at third floor would remain. Some minor internal alterations are also proposed.

2. Appraisal

2.1. The Town and Country Planning (Use Classes) Order 1987 as amended [hereafter referred to as the 'Use Class Order'] describes use classes of various activities. The planning history for this site establishes that the current lawful (existing/consented) use of the unit as a beauty salon (Sui Generis). The applicant proposes that the new activity described above falls within the same use class (Sui Generis), with no material change of use from existing.

2.2. The relevant test is therefore whether the use of the unit proposed to be carried out would be lawful for planning purposes under section 192 of the Town and Country Planning Act 1990. The local planning authority must therefore consider whether, on the facts of the case and relevant planning law, the specific use is or would be lawful. Planning merits are not relevant at any stage in this particular application process.

2.3. The Use Class Order states that any use that does not fall within a specific 'Class' is considered to be Sui Generis (SG). In this instance, the existing Beauty Salon use does not fall within any Class and as such was defined as SG.

2.4. Much like the existing beauty salon use, the use proposed would include the treatment of customers (generally pre-booked) in a number of treatment rooms at upper floors as well as storage at basement and a waiting area with some retail at ground floor level. Although the proposed use is described as a 'clinic', this would not represent a medical use (i.e. with the presence of qualified doctors or dentists) but would instead include alternative therapies such as the sale of herbal medicine (which does not require prescription and can be brought 'over the counter') as well as conducting treatments to customers. The use would not require the presence of trained medical practitioners, would not require the use of specialist medical equipment. The

use proposed is consequently not considered to fall within the meaning of Class D1 (non-residential institutions) which include medical or health services premises. Furthermore as the retail element at ground floor level would only be a small, ancillary element of the overall business model and use proposed the use would fall outside of Class A1 (retail). It is therefore accepted that the proposed use would also remain outside of any Use Class and would be described as a Sui Generis use.

- 2.5. As there are no permitted development rights afforded by the GPDO for changes of use from a Sui Generis Use, the change would therefore only be permitted if the two uses were similar enough so as to ensure that no material change of use would occur. As mentioned above, in this instance both the existing and proposed use would feature very similar business models (the completion of pre-booked personal treatments). As well as including similar activities, both uses would also feature similar levels of activity within the premises (i.e. one customer per treatment room at any one time), times of business operations as well as servicing requirements. The proposed use would not result in any increased harm to amenity to any neighbouring resident and would remain compatible with the local area as existing.
- 2.6. The ancillary accommodation at third floor level would remain as existing. Due to the access arrangements and single core, this upper floor accommodation may not be used as a self-contained residential unit and would remain for the use of the staff. Consequently there would be no change at this level.
- 2.7. Submitted plans do show some internal alterations to stud partitions etc. to rationalise the existing situation. No external alterations are proposed to the host property. In light of the above assessment regarding the use of the premise, any internal alterations do not require express permission in line with the definition of development outlined by section 55 (1a) of the Town and Country Planning Act 1990.

3. Conclusion

- 3.1. It is considered that the use of the premises for purposes described as an acupuncture / alternative therapy clinic would not constitute a change of use from the existing permitted use (Beauty Salon – Use Class SG). Furthermore the internal alterations illustrated on submitted plans would not fall within the meaning of development and would therefore also not require planning permission.

4. Recommendation

- 4.1. Grant approval