

Application ref: 2020/4682/P
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Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Proposed) Granted

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule: Use of ground floor unit as a Tattoo Studio with ancillary retail.

Drawing Nos: Site Location Plan, Venom Tattoo Studio dated 03/09/2020, Supporting justification dated 12/01/2021

Second Schedule:
31 Chalk Farm Road
London
NW1 8AJ

Reason for the Decision:

- 1 In Rugby Football Union [2002] EWCA Civ 1169, the Courts determined that if a landowner wishes to rely on the Use Classes Order, the burden of proof must be on them to show that the Use comes within the Order. In accordance with this requirement the applicant has provided a description of the Tattoo Studio and its activities.

The studio would have a retail offering to the front of the unit and would therefore retain a retail function. At this site the retail goods would be visible through the shopfront window which would encourage visits from members of the public.

Tattoo Studios typically serve members of the public who can walk in off the street whilst they may also operate a booking system for appointments. The applicant has confirmed that whilst bookings for tattoo appointments will

be taken, customers do not have to pre-book and can enter the unit from the street both to view the services/designs that can be offered and also to have tattoo work carried out. The Tattoo studio would therefore operate primarily as a walk-in service, which is a use commonly associated with a town centre. The unit would retain the vitality and viability of the Camden Town Centre.

The applicant has confirmed that clinical waste would be disposed of at a relatively low scale with a white van collection once a week. There would be no industrial procedures which are required to be carried out. The proposed sterilisation facilities required would be contained to back of house and are relatively low key in terms of operations. Sterilisation will be carried out by pressurised steam autoclave equipment and ultrasonic washing machine will be used in the sterilisation room, at the rear of the unit. The scale of such activities are typical of the majority of tattoo studios.

In terms of general consideration as to what use class applies to any particular activity, in *Forkhurst v Secretary of State for the Environment* (1982) 46 P & CR 89, the Court outlined four steps to be taken in deciding whether a use comes within a particular use class:

- i. formulate an accurate description of the actual use
- ii. see as a matter of construction whether that description fits into a use class
- iii. determine whether the description includes activities that fit into more than one use class, and
- iv. when there are activities that fall into more than one use class, determine whether one is ordinarily incidental to the other

Prior to the amendments to the Use Classes Order on 1st September 2020 the local planning authority (LPA) and many other LPAs and PINS have treated tattoo parlours or studios as Sui Generis. This may have been primarily because tattoo parlours did not fit under the previous Class A1 definition of "Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes".

However, the new definition of Class E - "E(c)(iii) - Other appropriate services in a commercial, business or service locality" allows for a broader range of uses or activities to fall within the classification of 'services' in a 'commercial, business or service locality'. The new Use Class Order has identified certain uses that are Sui Generis and Tattoo parlours are not identified amongst them. On the basis of the proposed activities described above, the Tattoo parlour would therefore fall within Class E. The Council consider that Tattoo parlours would fall within Class E as it is an appropriate service to be found in a commercial, business or service locality.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

Yours faithfully



Daniel Pope
Chief Planning Officer

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use*/operations*/matter* specified in the First Schedule taking place on the land described in the Second Schedule was*/would have been* lawful on the specified date and thus, was not*/would not have been* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use*/operations*/matter* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use*/operations*/matter* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.