

Application ref: 2021/3272/P  
Contact: Charlotte Meynell  
Tel: 020 7974 2598  
Email: [Charlotte.Meynell@camden.gov.uk](mailto:Charlotte.Meynell@camden.gov.uk)  
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**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Rolfe Judd Planning  
Old Church Court  
Claylands Road  
Oval  
London  
SW8 1NZ

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 the basement and ground floors for retail and dog grooming (Use Class E).  
Drawing Nos: A-001-P1; A-100-P1; A-200-P1; Cover Letter (prepared by Rolfe Judd Planning, dated 05/07/2021); Planning Note (prepared by Rolfe Judd Planning).

Second Schedule:

**36 Earlham Street**  
**London**  
**WC2H 9LH**

Reason for the Decision:

Informative(s):

- 1 The ground floor and basement of the site are currently in Class E use as retail. This application seeks to confirm that the use of the site as retail (pet shop) and a dog grooming facility would still be considered to fall within Class E use.

The dog grooming facility would include washing, blow-drying and hair cutting of a maximum of 3 dogs every 2 hours, with an upper limit of 12 dogs over the course of the day. There would be no form of medical or veterinary service provided. No clinical waste would be produced and no 'industrial procedures' would be required.

The Use Classes Order was updated on 1st September 2020 and retail use, formerly Class A1 use, is now considered to fall under Class E use. Class A1 use was previously defined as "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". The scope of uses which fall into Class E is wider than the previous Class A1 definition, with Part E(c)(iii) of the Order stating that Class E use is inclusive of "Other appropriate services in a commercial, business or service locality". This 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 dog grooming facilities are not identified amongst them. On the basis of the proposed activities described above, the Council consider that the dog grooming facility would therefore fall within Class E as it is an appropriate service to be found in a commercial, business or service locality. As such, the proposed use of the basement and ground floor as retail and dog grooming facility is considered to be Class E.

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:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

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.