

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2022/0472/P
<b>Officer</b>		<b>Expiry date</b>	
Amy Ly		04/04/2022	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
17 Chalk Farm Road London NW1 8AG			
<b>Conservation Area</b>		<b>Article 4</b>	
N/A		Basements	
<b>Proposal</b>			
Certificate of Lawfulness (proposed) for the use as a tattoo & piercing shop with service rooms and ancillary storage.			
<b>Recommendation:</b>		Grant approval.	

## 1. Site description

- 1.1 The building comprises basement, ground, first and second floors and it is currently in use as a retail shop with ancillary space. This is a Class E use under the Town and Country (Use Classes Order) (Class E (a)). The neighbouring properties mostly consist of commercial occupiers particularly at ground floor level.

## 2. Relevant history

AEX0200010 - Display of externally illuminated fascia sign and graphics on roller shutter.  
– Granted 05/02/2002

PEX0101026 - Installation of a new shop front and perforated style roller-shutter. As shown on drawing nos. 101, 102, 103 and 104 photographs, and letter dated 14/12/01. – Granted 05/02/2002

## 3. The Proposal

- 3.1 The proposal is for the use as a tattoo & piercing service with the shop occupying the ground floor, the tattoo & piercing service being in the basement and on the first floor and the second floor used for ancillary storage.

## 4. Assessment

- 4.1 Section 192 of the Town and Country Planning Act 1990 provides for an application to determine whether any proposed use or operations would be lawful for planning purposes. This application seeks to determine if the use as a tattoo & piercing shop with service rooms and ancillary storage would be lawful.

- 4.2 The existing use falls within Class E. This can be confirmed by business rates records which identify the application site as 'shop and premises' since at least 2010. Historical Google Street View images show the site as a commercial shop since at least 2008. The site's planning history also indicates the site was in use as a shop since 2002.
- 4.3 The planning history does not include any conditions which restrict the use of the premises, or exclude the use from any use within Class E.
- 4.4 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.
- 4.5 The studio would have a retail offering to the ground floor 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.
- 4.6 Tattoo Studios typically serve members of the public who can walk in off the street whilst they may also also operate a booking system for appointments. 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.
- 4.7 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:
- formulate an accurate description of the actual use
  - see as a matter of construction whether that description fits into a use class
  - determine whether the description includes activities that fit into more than one use class, and
  - when there are activities that fall into more than one use class, determine whether one is ordinarily incidental to the other
- 4.8 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".
- 4.9 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.
- 4.10 The NPPG confirms that 'Movement from one primary use to another within the same use

class is not development, and does not require planning permission.' The change from shop to tattoo & piercing shop/service would not represent a change of use, would not development which would require planning permission.

**5. Recommendations:**

5.1. Approve Certificate of Lawfulness

