DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H14-0506-26**	**Applicant:**	**Moll Mshy Tattoos**
Proposal:	Use of Premises as Tattoo Studio		
Location:	Shop And Premises 42a Knight Street Pinchbeck		
Terminal Date:	24th July 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This is an application for a certificate of lawfulness made under Section 192 of the Town and Country Planning Act 1990. The application seeks to ascertain whether the change of use from an existing hairdresser's salon to a tattoo studio would be lawful. No external alterations are proposed.

Site Description

The site is within the settlement boundaries of Pinchbeck, as outlined within the South East Lincolnshire Local Plan, 2019. The unit is towards the centre of the settlement, within a small cluster of shops and takeaways. The site is within Pinchbeck Conservation Area.

Relevant History

No relevant site history

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Pinchbeck Parish Council

The Parish Council neither supports nor objects to this application. However, given the location within the Conservation Area, the Council requests that, should permission be granted, any signage associated with the development is kept discrete in scale and appearance and is sympathetic to the character of the building and surrounding street scene

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

This application is a legal determination, and planning policy is not relevant to the conclusion as to whether the proposed use would be lawful. The planning history of the site was investigated. Permitted development rights had not been removed by any previous permissions.

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

In support of this application, the following has been submitted:

- Application form
- Site location plan

The Town and Country Planning (Use Classes) Order 1987

The Town and Country Planning (Use Classes) Order 1987 defines specified use class which the operation of a building may fall into. Schedule 2, Part A (introduced by the aforementioned 2020 act) outlines "commercial, business and service" uses, identified as Class E. Class E is defined as a use, or part use, for any of the following purposes:

(a)for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
(b)for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
(c)for the provision of the following kinds of services principally to visiting members of the public:
(i)financial services,
(ii)professional services (other than health or medical services), or
(iii)any other services which it is appropriate to provide in a commercial, business or service locality,
(d)for indoor sport, recreation or fitness, not involving motorised vehicles or firearms or use as a swimming pool or skating rink, principally to visiting members of the public,
(e)for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
(f)for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
(g)for:
(i)an office to carry out any operational or administrative functions,
(ii)the research and development of products or processes, or
(iii)any industrial process,
being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."

It is lawful to move between uses within the same use class.

Part 3 of the Order also lists uses which are explicitly Sui Generis uses, whilst outlining that a use which does not fall into any other defined class would be Sui Generis.

Existing Use Class

The application form states that the previous use of the building was a Class E use. No further evidence has been produced to support this claim.

The unit is currently occupied by a hairdresser's. It would appear, from the information available through a Google search and the Officer's site visit, that the use is a conventional hairdressing salon. The primary function is the cutting of hair and additional services offered appear limited. On this basis, it is considered that the existing lawful use of the site would fall under the broad Class E use class.

Evaluation of Lawfulness of Proposed Use

Paragraph 1A of Section 3 of The Town and Country Planning (Use Classes) Order 1987 outlines that the use of a building for any purpose of the same class is not taken to involve development. Section 55, Paragraph 2f of the Town and Country Planning Act further reiterates this stating that the following shall not be taken to involve development: "in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class."

As outlined previously, the use of the site does currently sit within a broad Class E use, on the balance of probabilities.

Part 3 of the Order lists certain defined Sui Generis and the broad categories of Class E previously listed. The use of a site as a tattoo studio is not explicitly mentioned within the Use Classes Order. On this basis, the assessment of the use class which a tattoo parlour would fall within must be made on the facts of the case, including the established industry consensus.

Appeal decisions 6002126, APP/V1505/W/25/3360641, APP/Z3445/W/22/3298697, APP/V5570/W/22/3301493, APP/E5330/W/24/3344248, and APP/D5120/W/21/3271873 concluded that the use of a building as a tattoo studio would be a Sui Generis use. Whilst it is accepted that these appeal decisions are a relatively small sample size, they do provide a clear consistency in approach to classification of tattoo studios since the amendments to the Use Class Order under The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

There is nothing before the Council to conclude differently from the established working standard. On this basis, the use of the site as a tattoo studio is considered to be Sui Generis.

The certificate cannot be granted in this case as the change of use would be material and requires full planning permission.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

The change of use proposed within this submission is considered to be a material change. No case law, evidence or justification has been provided to support the Applicant's view that the use of the site as a tattoo studio would be a Class E use. It is considered by the Planning Authority, in light of the relevant appeal decisions, that the use of a premises as a tattoo studio would classify as a Sui Generis use.

The change proposed is therefore considered to be a material change of use, warranting full planning permission.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be deemed unlawful under Delegated Authority