

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/02888
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	The Silver Plough, Pitton, Salisbury, SP5 1DU
DEVELOPMENT DESCRIPTION:	This proposal involves the creation of additional guest accommodation to serve The Silver Plough through re-using existing rooms within the public house
RECOMMENDATION:	Refuse

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed creation of additional guest accommodation to serve The Silver Plough through re-using existing rooms within the public house.

The planning merits of the proposal are not under consideration. The only issue is whether the proposed works constitute "permitted development" (PD) under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter referred to as "the GPDO"].

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP's is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is "lawful" if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

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The Town and Country Planning (Use Classes) Order 1987 (as amended) sets out Use Classes for the purposes of planning legislation. A public house falls within the sui generis use class, with hotels, boarding and guest houses falling under C1 use. The application suggests that the proposal would form an extension of the existing guest accommodation already offered within the public house, and would not have their own separate means of access, curtilage, postal address, or utility supplied, and would be accessed through the main public house. It is not clear, however, from the submission documents, where the existing guest accommodation at The Silver Plough is sited. The existing floor plans are included below:

Proposed floor plans included below:



Proposed Ground Floor Plan



Proposed First Floor Plan

Section 55 of the Act sets out the meaning of “development”. Part (1) defines “development” for the purposes of planning legislation. It states that “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Part (2) outlines that the use of land shall not be taken for the purposes of this Act to involve development of the land; Part (2) f) confirms:

f) “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

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

Two comments from third parties were received, included below:

‘I have 2 areas of concern with the plans for the Silver Plough: Highways and services.

Highways: The location of the pub on White Hill opposite the new shop and immediately below what is in effect a crossroads, since traffic using the entrance to the village Hall parking area will increase markedly, is a concern. Already cars regularly park all the way up the hill when the pub carpark is full, especially at weekends. This renders the Hill as a single track road and increases the likelihood of accidents and near misses. In addition, The Green is a single track road and any increase of traffic using the rear of the pub to park will need to be managed. It is important that parking is not sought on this road at any time. The plans, if all rooms are full, could add 10+ cars to the car park prior to the arrival of guests which is a significant number.

Services: The sewer system in the village has problems in the Winter months and such an addition to the population of the village will only increase this issue. again, assuming all rooms

are occupied, the population of the village will increase by around 5-10%. Please can we ensure that this issue is given due consideration in any discussion of the plans?

These issues aside, I support the development of the Silver Plough and its shift into being a hotel rather than a village pub. My concern is that this happens in the context of a very small village with existing highway and service issues.'

'I support the application on the whole, however, there is now a chance to incorporate an accessible toilet for the use of the pub/restaurant customers. Currently accessibly to the Gents with a wheelchair is almost impossible and the Ladies is difficult. I am not disabled myself but one friend cannot use the Silver Plough should he need to use the 'loo'.'

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
S/1984/0321 Internal alterations to and extension of the public house and restaurant to include a function room. Refused 04/04/1984
S/1986/1237 Extension to cellar Approved 24/09/1986
S/1987/1542 Erection of staff accommodation and stores Approved 25/11/1987
S/1989/1693 Kitchen extension Approved 22/11/1989
S/1990/0104 10 additional bedrooms with bathrooms en suite. Staff office accommodation and conference room over existing building. New reception and breakfast area Refused 25/04/1990
S/1990/1616 Construction of building to provide additional 8 bedrooms to existing public house Approved 02/01/1991
S/1998/1872 Erection of new building for two staff bedrooms and store, following demolition of existing store building Approved 19/01/1999
PL/2021/09770 Insertion of French doors in principal elevation and construction of a raised decked area and balustrade. Approved 07/12/2021
PL/2026/02887 Vary Condition 4 on S/1998/1872 - Full application - erection of new building for two staff bedrooms and store, following demolition of existing store building. NOT YET DETERMINED

ASSESSMENT AND CONCLUSION

The proposed use would include the provision of 9 en-suite guest bedrooms, through the conversion of existing internal rooms. There is also a live application currently being processed for the variation of condition 4 on permission S/1998/1872, which granted consent for the erection of a new building for two staff bedrooms and a store. The application seeks to vary condition 4 to allow the outbuilding bedrooms to be occupied by either staff and/or guests of The Silver Plough. It is assumed that the variation of this condition would introduce the guest

accommodation use to the public house, and this application seeks to expand on that guest accommodation use by using the existing skittle alley, and entire first floor, for guest accommodation. However, the S73 application has not yet been determined, and it does not appear that any other guest accommodation operates at the site. An email was sent to the agent requesting clarification on this matter however, no reply was received.

The introduction of guest accommodation, to the extent of the entire first floor, and a section of the ground floor, alongside potentially also two bedrooms in the outbuilding, would introduce a significant amount of floorspace at The Silver Plough for guest accommodation, which under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, would fall under Use Class C1. A certificate of lawfulness can be granted on the basis that development would not occur, with development including the making of any 'material change in the use' of any building or other land. The introduction of 9 guest bedrooms, within a public house that does not currently operate any overnight guest accommodation, is considered a material change in the use of the building. The public house operates under sui generis use, for the building as a whole. The introduction of guest accommodation occupying the entire first floor, and a portion of the ground floor, would subsequently constitute mixed use development, rather than operating as ancillary to the existing public house. The traffic, parking demand, noise and general impact of the skittle alley, and owners' accommodation, is not comparable or equivalent to that of 9 en-suite guest bedrooms.

As a matter of fact and degree, the provision of guest accommodation at The Silver Plough would introduce guest accommodation which is not considered of minor scale or impact. By converting the first floor of the public house, and a section of the ground floor, introducing a C1 use which does not already exist within the public house, it would become mixed use, operating as a public house and hotel, rather than solely as a public house under sui generis use.

Section 55 of the Town & Country Planning Act (the Act) defines 'development', and this includes the making of any 'material change in the use' of any building or other land. Therefore, for a change of use to be development, it needs to be a material change. The introduction of this level of guest accommodation is considered a material change, which would reflect a significant difference in the character of activities, when considered against the existing, as a matter of fact and degree. The internal areas proposed to become guest accommodation, the skittle alley and owners' accommodation, do not operate in a manner similar to that of guest accommodation. The occupation of the entire first floor, comprising 6 guest bedrooms, would be a significant change in activity compared to operations and activities as the owners' living accommodation, which is privately used as ancillary accommodation in association with the public house. The conversion of the skittle alley into three guest bedrooms, in addition to the six at first floor level, would reflect a significant difference in the character of the activities, with the guest accommodation operating in a manner separate to that of the public house, and on a scale beyond what is considered ancillary.

The submission, in the Planning Statement, references Appeal Decision (Tesco Stores Ltd v Leeds CC), where the Inspector allowed the granting of a LDC, noting that the level of activity associated with the premises would at all times have been what a person living close by could have inspected, and that the provision of 7 guest bedrooms would retain the lawful use of the premises as a public house. It is not possible to conclude that, as a result of the Inspector's

decision in that case, that the provision of any number of guest accommodation, or lawful development certificates, can be granted for this purpose because it does not constitute mixed use development. The point at which the change from sui generis public house use with ancillary accommodation, to a mixed-use public house and hotel is a matter of fact and degree. The scale of the public house provision that was retained or lost is not clear in the case referenced, and each application is assessed on its own merits. The application being considered here, at The Silver Plough, would reflect a loss of key attributes of the public house, the owner's accommodation/flat and the skittle alley. The introduction of guest accommodation, and the loss of these features typically associated with a public house, would reflect a material change in this case, where there is no established overnight/tourist accommodation currently operating.

Although the application submission suggests that the proposed guest accommodation would form an extension of the existing guest accommodation already offered within the public house, it is the Council's position and understanding that at the time of determining this application, The Silver Plough does not operate any lawful guest accommodation, which has been approved or agreed through planning permission. The annexe, approved under S/1998/1872, has a planning condition on the consent restricting its use to two staff bedrooms. The existing floor plans submitted in this consent do not show any guest accommodation. As such, it is considered that the introduction of a C1 use within the public house, comprising at least 9 guest bedrooms, would reflect a material change of use, which would allow for a significant difference in the character of the activities from what has gone on previously as a matter of fact and degree.

As such, this cannot be granted consent through a lawful development certificate, as the proposed development is not considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

It is recommended that a **Certificate of Lawfulness for Proposed Development be REFUSED** for the following reasons:

Reason for refusal: It is considered that on the balance of probabilities, the introduction of 9 guest accommodation bedrooms would require planning permission, as it reflects a material change of use to a significant area of The Silver Plough, in conflict with Section 192 of the Town and Country Planning Act 1990. The conversion of the skittle alley and owners' accommodation into 9 guest bedrooms occupying the entire first floor, and a section of the ground floor, of the public house would reflect a mixed-use development, sui generis (public house) and C1 (hotels/guest houses), with significantly different operational impact, which cannot be allowed through a certificate of lawfulness. The proposed guest accommodation is not considered an extension of existing, as there is not currently any guest accommodation provision at the public house. The Silver Plough operates solely as a public house, and the introduction of guest accommodation would constitute a material change of use. Therefore, as the proposal would require planning permission, the certificate of lawfulness is refused.