

DELEGATED APPLICATION REPORT

CERTIFICATE OF LAWFULNESS FOR PROPOSED USE

APPLICATION NUMBER: PL/24/0688

Target Date Extended: 24/01/2025

SITE ADDRESS: The Castle Tap – 120 Castle Street

PROPOSAL: Certificate of lawful proposed development for use of existing outhouse/store as a training micro brewery.

APPLICANT: Count Me collective

CASE OFFICER: Julie Williams

SITE DESCRIPTION & PROPOSAL

The site is a long established public house. Current C19th public house on site of earlier coaching inn. The property is listed grade II and lies in the Russell Street/Castle Hill/Oxford Road Conservation Area.



From Castle Hill



Location Plan



Location of Microbrewery

The intention is to use part of the building (a store room) to run a small micro-brewery and provide training on brewing.

PLANS SUBMITTED and received on 28/5/2024

Location Plan

The applicant also confirmed by email dated 15 Jan 2025:

During the actual brew day there is a period of 1 hour whilst the malted barley is being steeped in hot water. The smell is a bit like porridge and is only noticeable if you put your head directly over the vessel it's being steeped in.

Then the run off from that vessel is boiled for an hour and hops are added. The steam from this does smell (quite pleasantly) but our vessels are only 200 litres to the brim. We will be boiling 120-160 litres for an hour. The smell on such a small amount is far less than the smell that would emanate from a pub kitchen and wouldn't be noticeable at all more than 1 metre away.

After that it is just fermentation for 3 days which doesn't really smell as the vessels will be lidded. We will only brew a maximum of twice a week and all between 9-5. The vessels are 200 litres to the brim, so a working volume of up to 160 litres. The maximum

production, assuming brewing twice a week, would be 8 casks (40 litres each) but it is expected to be mainly brewing once a week and the primary use will be training.

Deliveries in will be boxes not pallets, deliveries out will be by volunteers cars or just to the pub itself.

No staff, two lead volunteers and up to 3 adults with learning disabilities as trainees.

RELEVANT PLANNING HISTORY OF THE SITE

PL/08/1568/FUL & PL/08/1121/LBC- Change of use and conversion of the Horse & Jockey Public House into 4 units to include part single and part two storey rear extensions along with one new dwelling at the rear fronting Anstey Road. Withdrawn - 4/12/2008.

RELEVANT LEGAL GUIDANCE

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, is lawful, and if so, be granted a certificate to that effect.

An applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved. In determining an application for a prospective development under [section 192](#) of the Town & Country Planning Act a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes."

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate. However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it. The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant.

APPRAISAL

The issue to be determined by this application is whether the proposed use of a small part of the public house (c25sq.m) as a micro-brewery (possibly a B1(C) light industrial use) with training provided to 2 or 3 students brewing and distributing beer to the pub and off-site amounts to a change of use or a new use that requires planning permission.

The applicant has submitted the information quoted above. The internal floor area of the area where the proposed micro-brewery and training will be held is small compared to the overall size of the public house (60sq.m0) and will not compete with the existing public house use.

A premises licence may be required to be granted by Reading Borough Council as Licencing Authority and the applicant has been advised to check this out.

Section 192 of the Town & Country Planning Act 1990 requires a local planning authority to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes."

Based on the information submitted it is accepted that the proposed micro brewery and training (numbers of students, times per day and frequency) would be ancillary to the operation of the public house and therefore, in accordance with Section 55 (2.f) of the T&CPA 1990, would be a lawful use as part of the existing public house.

LEGAL COMMENT ON APPLICATION

A micro-brewery use would be a B1 Business/light industrial, specifically B1(c), an industrial process which can be carried out without detriment to the amenity of a residential area, based on the description provided by the applicant. So, on that analysis, there would be a change of use of part of the site from *sui generis* pub to an ancillary B1 light industrial use, rather than a change within the same use class.

However, the change of use of this small part of the building would not be material in planning terms, and so not development as defined under s55(1). This would be because the B1 use would not have any impacts which are materially different to the use of the existing pub.

Therefore, the overall conclusion is that a lawful development certificate for the proposed use can be issued.

Officer note: Given the legal advice the description of the certificate of lawful use sought has been amended from "Change of use of existing outhouse to training micro brewery" to "Certificate of lawful proposed development for use of existing outhouse/store as a training micro brewery".

RECOMMENDATION & CONCLUSION:

Based on the information provided by the applicant relating to:

- the size of the proposed micro-brewery operation,
- the operating times as set out on the application form, and
- number of staff or trainees

it can be confirmed that the proposed micro-brewery in the store room as described would be ancillary to the principal use of the premises at 120 Castle Street as a public house (Use Class being Sui Generis) and would not constitute "development" as described in Section 55(2.f) of the T&CPA 1990. A Certificate confirming the proposed use as described would be lawful in planning terms can be issued.