

Executive

29 October 2015

Report of the Acting Director for City and Environmental Services

Protecting Public Houses

Summary

1. This report is in response to the motion passed by Council on 11th December 2014 in relation to protecting public houses. The purpose of the report is to provide Members with background information in relation to the options available to the council to potentially afford greater protection to public houses including Article 4 Directions and the assets of community value register. It asks Members to consider four options.
2. This paper is being considered by Members of the Local Plan Working Group on 19th October 2015. A verbal update of the outcomes of this meeting will be given at Executive.

Recommendations

3. Executive Members are asked to consider, in accordance with option three, the following:

i) No further work to be undertaken.

Reason: Based on the information available about the loss of pubs there is not considered to be an immediate threat to the loss of public houses from change of use. In addition, no budget has been identified to support the resources required to undertake additional work. Pubs will still continue be protected through the planning application process where permission is required, for example for change of use from pub to residential. Residents still have the opportunity to nominate local pubs as assets of community value and the Council will consider any request for immediate Article 4 Directions for specific public houses where there is a justified and urgent requirement for protection.

Background

4. Well-run pubs play an invaluable role at the heart of their local communities. They provide a safe, regulated and sociable environment for people to enjoy a drink responsibly and meet people from different backgrounds. Campaign for Real Ale (CAMRA) research shows that 84% of people believe that a pub is as essential to community life as a shop or post office. However, despite their popularity, in recent years pub closures have escalated dramatically. Latest figures from CAMRA show that nationally, 29 pubs are closing every week. A combination of factors, such as falling footfall and soaring property prices is leading to many owners shutting down their pubs and converting the buildings to another use.
5. In July 2014 an early day motion was submitted for debate in the House of Commons setting out that permitted development rights are leaving pubs in England vulnerable to demolition or conversion to a range of retail uses without planning permission. In light of evidence from CAMRA, that two pubs a week are converted to supermarkets, and that these planning loopholes are contributing to the loss of valued community amenities it was expressed in the motion that there is concern that local people are being denied a say in the future of their neighbourhoods. The motion urged the Government to bring forward amendments to the General Permitted Development Order (GPDO) 1995 so that any demolition or change of use involving the loss of a pub would require planning permission. The Early Day Motion 208 was signed by the then MP for York Central, Hugh Bayley.
6. Locally, a motion was passed at Council on 11th December 2014 in response to 'the growing number of local pubs that are closing and being threatened with conversion to supermarkets, in some cases without the opportunity for the local community to have a say in the process'. The motion called on Cabinet to:
 - follow the example of other councils by swiftly introducing an Article 4 exemption to GPDO 1995 so as to require application for planning permission for such change of use within the boundary of the City of York, starting with the Punch Bowl in the Groves as an urgent priority; and
 - support the provision of advice to local groups on how to register their local pub as a 'community asset', identifying key social assets in local communities that need to be protected.

7. An immediate Article 4 Direction was implemented on 24th December 2014 for the Punch Bowl Pub on Lowther Street. This is discussed from paragraph 23.

Current Evidence Base

8. A public house in a traditional sense can be described as a building with a bar and one or more public rooms licensed for the sale and consumption of alcoholic drink, often also providing light meals. The council holds records of all licensed properties within the city. Under the Licensing Act 1964 there was a clearer distinction of what was a nightclub (closed later than 11pm and provided for dancing) and a public house which closed at 11pm. However under the Licensing Act 2003 there is no clear distinction between types of property. As such upon review of the council's licensing records it was apparent that all licensed properties cover establishments such as restaurants, cafes and bars/nightclubs, as well as the more traditional 'pub'. It is considered that the driving force behind the Council motion and protecting public houses is aimed at the more traditional pub and as such, an attempt has been made to estimate the number of drinking establishments in this regard in the city by colleagues in licensing. There are currently estimated to be 190 'pubs' in York, shown at Annex A. It should be noted that this is an estimate only and includes some city centre 'bars' rather than traditional 'pubs' but should eliminate restaurants with a licence. We have also been advised that the list of licensed premises changes on a regular basis as such the information provided can only be a snapshot at a certain point in time.
9. Applying the same filters, it has been possible to gain an understanding of the pubs that have closed by searching for properties where licences have been surrendered, revoked or lapsed. A licence is surrendered by the licence holder who for one reason or another no longer requires a licence. A licence is revoked by the licensing authority at a licensing hearing. A licence lapses if the licence holder is made bankrupt, insolvent or dies and the licence has not been transferred to someone else. Looking back to 2005 when the council took over alcohol licensing from the magistrates under the Licensing Act 2003 there have been 20 premises where licences have been surrendered, revoked or lapsed. Of these 20, four premises are known to have had new licences issued and are still operating as

drinking establishments. From this information, there can be estimated to have been 16 drinking establishments across the city that have closed since 2005. More information can be found at Annex B.

10. As set out in the following section, most change of uses from a pub to another use do not require planning permission and are instead covered by 'permitted development rights'. As such we are not able to keep a record of these cases. However a review of planning permissions of change of use of public houses that fall outside of permitted development rights and have required planning permission has been undertaken. Over a ten year period there have been 13 applications permitted and implemented for the change of use from public house to residential. The majority of these permissions have been outside of the city centre in the city's suburbs and villages. There has also been one application permitted and implemented for the change of use from public house to retail unit (application required because of external alterations). Annex C shows the location of the 14 change of use applications resulting in the loss of 'traditional' public house over the last 10 years.
11. In comparing both sets of information on the loss of pubs, there are only three changes of use that were not picked up through the search of planning applications but identified through licensing, which can be assumed to be changes that have occurred through permitted development rights. There is one change of use not picked up through the licensing data and this is assumed to be because the licence ceased prior to 2005 when the council's records date back to. Using both sets of information, it can be estimated that the loss of pubs extends to some 17 premises, shown below:

Table 1: Loss of pubs 2005 – 2015

Premise	Address	Reason for Loss	Source of information
Old Orleans	9-11 Low Ousegate, YO1 9QX	Change of use to supermarket through permitted development rights	Licensing
The Fossway	187-189 Huntington Road, YO31 9BP	Change of use to residential through planning permission	Planning and Licensing
Cygnets Inn	Price Street, YO23 1BH	Change of use to residential through planning permission	Planning and Licensing
Turf Tavern	277 Thanet Road, YO24 2PE	Change of use to residential through planning permission	Planning and Licensing
Yearsley Grove Hotel	Huntington Road, YO31 9BY	Change of use to residential through planning permission	Planning and Licensing
Fox & Hounds	39 Top Lane, Copmanthorpe, YO23 3UH	Change of use to residential through planning permission	Planning and Licensing
Edward VII Public House	Nunnery Lane, YO23 1AH	Change of use to residential through planning permission	Planning and Licensing
The Junction Public House	Leeman Road, YO26 4XH	Change of use to residential through planning permission	Planning and Licensing
Corner House	165-167 Burton Stone Lane, YO30 6DG	Change of use to supermarket through permitted development rights	Licensing
Greyhound Inn	5 York Street, Dunnington, YO19 5PN	Change of use to residential through planning permission	Planning and Licensing
Pack of Cards	Lindsey Avenue, YO26 4RL	Change of use to residential through planning permission	Planning and Licensing
Tanglewood	Malton Road, Stockton on the Forest, YO32 9TW	Change of use to furniture shop through permitted development rights	Licensing

Premise	Address	Reason for Loss	Source of information
Reindeer Inn	Townend Street, YO31 7PS	Change of use to retail through planning permission	Planning and Licensing
White Rose Hotel	Cornlands Road, YO24 3DZ	Change of use to residential through planning permission	Planning and Licensing
Locomotive Inn	Watson Street, YO24 4BQ	Change of use to residential through planning permission	Planning and Licensing
Tang Hall Public House	Fourth Avenue, YO31 0SS	Change of use to residential through planning permission	Planning and Licensing
Jacobean Lodge	Plainville Lane, Wigginton, YO32 2RG	Change of use to residential through planning permission	Planning

12. Within this same time period, there have been 13 permissions granted and implemented for the creation of new drinking establishments that fall within the A4 use class. It should be noted that not all of these applications are for 'traditional' public houses. The majority of these new drinking establishments are in the city centre and are shown at Annex D.
13. Whilst over 1,200 people signed a petition to protect The Punch Bowl which was submitted in the case for the pub to have an immediate direction (see paragraph 23) no representations were received through the wider consultation on the decision to make the immediate direction. There was only one response to the city wide Local Plan Preferred Options consultation in 2013 indicated that there should be a more specific presumption against loss of traditional public houses in the plan. As such, city wide opinion on more tightly controlling permitted development rights for public houses is unknown.

Approaches to Protecting Public Houses

14. Currently, planning permission is generally not required under planning law to demolish or change a pub into the following uses:
- a restaurant or cafe;
 - a shop or supermarket; and
 - offices for financial and professional services e.g. estate agents and building societies.

15. These changes are known as permitted development rights. A planning application must be submitted for the change of use from pubs to all other uses, such as to housing.
16. The National Planning Policy Framework (NPPF) at paragraph 70 states that local planning authorities should 'guard against unnecessary loss of valued facilities where they would reduce the community's ability to meet its day-to-day needs' and should 'ensure that established shops, facilities and services are retained for the benefit of the community'. The definition of community facilities includes public houses.
17. Locally, the 2005 Local Plan at Policy L1b 'Loss of Local Leisure Facilities' affords the level of protection to pubs given by NPPF paragraph 70. Policy L1b recognises that leisure facilities provide a valuable service for residents and play an important role in the social and economic character of local areas. These facilities can enhance the quality of life of communities and contribute to the vitality and liveliness of neighbourhoods. It is therefore important that all leisure facilities are protected and continue to meet local needs. For Policy L1b leisure facilities cover a variety of uses such as pubs, bingo halls, sports and leisure clubs. Under Policy L1b planning permission will only be granted for a change of use that would result in the loss of a leisure facility where it can be demonstrated that a need for the leisure facility no longer exists; or appropriate alternative facilities exist within the catchment area.
18. This approach remains in the emerging Local Plan under Policy CF1 'Community Facilities' which acknowledges that the local plan has an important role to play in ensuring that community facilities are provided in the most effective and accessible way. Existing services must be protected as much as possible. Under the policy proposals which fail to protect existing community facilities or involve the loss of facilities unless it can be demonstrated the use is no longer, or cannot be made, viable or equivalent alternative provision can be made.
19. The local authority and community have very little control to protect public houses from the change of use to restaurant/cafe, retail uses or offices for financial and professional services like estates agents and building societies. There is more control for those changes of use requiring a planning application, such as

changes to residential uses which have national and emerging local planning policy seeking to guard against the unnecessary loss of valued community facilities.

20. However, there are two main mechanisms that can potentially afford extra protection to pubs:
 - implementing an Article 4 Direction; and
 - designating nominated pubs as assets of community value.

Article 4 Directions

21. The council can remove permitted development rights through the Article 4 Direction process to cover any geographic area where it is satisfied that it is expedient to do so. The effect of making an Article 4 Direction is that it will be necessary to obtain planning permission to carry out a change of use that would otherwise be permitted by the GPDO. Directions can be property or area specific, or they can cover an entire local authority area. The reasons for making an Article 4 Direction should be justified by evidence of local circumstances being such that there are compelling reasons to impose an exceptional control and should be in accordance with Government guidance. Government guidance states that there should be particularly strong justification for the withdrawal of permitted development rights relating to a wide area. A proportionate approach consistent with the guidance is less likely to be the subject of legal challenge. Planning controls introduced by Article 4 Directions can either take effect immediately or could come into effect after a minimum period of 12 months. In the case of a non-immediate Article 4 Direction, there would be a 12 month period during which change of use of pubs could take place using permitted development rights.
22. One of the key differences between the two types of Article 4 Direction detailed above is the issue of compensation liability for the local authority. There is no provision for compensation claims against councils in respect of non-immediate Article 4 Directions, which come into effect after a minimum period of 12 months following designation as permitted development can still take place during that 12 month period. In the case of Article 4 Directions with immediate effect, local authorities are at high risk of compensation claims by applicants, who can claim compensation under section 108 of the Town and Country Planning Act 1990 (as amended). They can do so if their

planning applications, submitted within one year of the Article 4 Direction designation, are either refused planning permission or granted planning permission subject to more limiting conditions than permitted development would normally allow. They are entitled to claim compensation for financial losses incurred, including process costs, loss of land value and loss of future income.

23. It should be noted that the effect of an Article 4 Direction is not to prohibit development, but to require a planning application to be submitted for development proposals, to which it applies, in a particular geographical area. As such, if the council introduces an Article 4 Direction to control the change of use from a pub to a use falling within use class A1 (shops) in any given area, it would also be necessary to develop a clear planning policy position against which new change of use applications can be assessed. This would be in an interim planning policy statement. Any work to pursue an Article 4 Direction and policy approach would be project managed by forward planning but involve development management and legal.
24. A request was made to the council from the York branch of CAMRA for an immediate Article 4 Direction for The Punch Bowl public house, 124 Lowther Street. The request was accompanied by a petition with over 1,200 signatures from Punch Bowl patrons, local traders, customers of local traders and local residents in opposition to the loss of the pub through the change of use to a shop. An immediate direction was made on 24 December 2014, which removed permitted development rights for the change of use of the pub (use class A4) to a shop (use class A1). Following a period of consultation which ended on 16 February 2015, during which no representations were received either in support or objection the Article 4 Direction was confirmed by the council on 18 June 2015.

Assets of Community Value

25. The community right to bid gives eligible groups the opportunity to identify and nominate a building or other land for listing by the local authority as assets that are of value to the local community and by having such assets listed gives them a fair chance to make a bid to buy them on the open market if the owner decides to sell. An eligible community group could use this right to bid for a local asset like a pub by 'pausing' the sale for a period of time in order to raise the finance to make a bid to buy it on the open

market The right to bid only applies when an asset's owner decides to dispose of it. There is no compulsion on the owner to sell it. The scheme does not give first refusal to the community group, and it is not a community right to buy the asset, just to bid. This means that the local community bid may not be the successful one. All nominations for land or property to be included on the list of assets of community value must be made using the Council's assets of community value nomination form.

26. When assessing whether a particular building is of community value, the council must determine whether it meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 i.e. whether the primary use of certain land or buildings (or recent past use) is considered to further the social wellbeing or social interests of the local community and can continue to do so. In January 2015, Ministers announced plans to strengthen the protection of pubs identified as assets of community value by bringing forward secondary legislation so that in England the listing of a pub as an asset of community value will trigger a temporary removal of the national permitted development rights for the change of use or demolition of those pubs that communities have identified as providing the most community benefit. This will mean that in future where a pub is listed as an asset of community value, a planning application will be required for the change of use or demolition of a pub.
27. Changes to the GPDO have now been made, by an amendment order laid before parliament on 12 March 2015. This means that with effect from 6 April 2015, where a drinking establishment has been entered onto a list of assets of community value, or nominated as such, development will not be permitted development for a specified period. Through the changes the Government is dis-applying the national permitted development rights for the change of use or demolition of use class A4 (drinking establishments) premises.
28. Five pubs in York so far have been successfully nominated and added to the list of community value assets. These are The Mitre, Shipton Road, The Fox Inn, Holgate Road, The Golden Ball, Bishophill, The Melbourne Public House, Cemetery Road, and the Punch Bowl Public House, Lowther Street. All are within the main urban area. There are currently two other pubs that are being considered, The Derwent Arms Public House in Osbaldwick and the Swan Public House, Bishopgate Street.

29. Property services currently manage the process, considering nominations, writing reports for the capital and asset board and the Executive Member comments and decision, and maintaining and publishing a list of all successful nominations and those that are unsuccessful, as well as providing a regular update a list of nominations which are currently being considered.

Case Studies

30. A number of authorities have pursued immediate Article 4 Directions to remove permitted development rights for individual pubs. Wandsworth Borough Council has removed permitted development rights for demolition and change of use, North Somerset Council have removed permitted development rights for change of use and Watford Borough Council has removed permitted development rights for painting the exterior of any building work and demolition. Cambridge City Council has issued an immediate direction for 17 pubs throughout the city to remove permitted development rights for demolition. Article 4 Directions were considered expedient because Cambridge already has an undersupply of public houses (highlighted in evidence base work undertaken by consultants), which is likely to be exacerbated by a growing population.
31. Only demolition permitted development rights were removed through the Article 4 Directions. This is because Cambridge City Council is putting in place, via interim planning guidance, a policy of protecting pubs as community facilities whilst allowing flexibility in the re-use of a public house for alternative commercial community leisure, retail and business uses falling within 'A' use classes. As such, to restrict change of use permitted development rights via an Article 4 Direction would be inconsistent with their policy approach.
32. It is our understanding that there are no examples of local authorities who have pursued a city wide Article 4 Direction. A local authority wide direction to remove permitted development rights for demolition of pubs was considered in Cambridge however it was considered that this would represent duplication of controls that already exist in Conservation Areas and would be difficult to justify.

33. Recently, Leeds City Council has added all the public houses in Otley to their register of assets of community value. The Otley Pub Club is a community organisation made up of local pub supporters and submitted 19 simultaneous nominations for pubs within Otley. In accordance with the provisions of the Localism Act, in assessing the applications Leeds City Council noted that the current use of the pubs do further the social interests and social wellbeing of the local community. Pubs are places where people go to drink and socialise. The setting of a pub is social in nature. To argue to the contrary would be to paint a picture of a pub being a place where people went to consume alcohol alone without interacting with other patrons. If the local community solely intended to consume alcohol, it is considered more likely they would do so in their own home, taking advantage of the lower prices available in shops and supermarkets. The fact that people are visiting a social environment supports the fact that they do so to further their social interests and social wellbeing.

Summary

34. Nationally and locally there is concern about the loss of traditional public houses through change of use, which cannot be strictly controlled through the planning system due to permitted development rights. There are however national and local planning policies that can be used to refuse any application that is required for the change of use, for example, for the change of use from a public house to residential. Best practice from other local authorities primarily relates to concern over demolition of public houses rather than change of use.
35. From the information available on this issue it would suggest that in York there is not an immediate threat to the loss of public houses from change of use, particularly in the city centre. However, there is evidence of the loss of public houses outside of the city centre to residential uses. In these cases however it was not considered appropriate to guard against the change of use in accordance with national and local guidance.

Options

36. Officers request that Members consider the following options relating to protecting public houses:

Option One: More widely promote the provisions for nominating the listing of pubs as assets of community value and provide guidance on the nomination process and consider any request for immediate Article 4 Directions for specific public houses where there is a justified and urgent requirement for protection.

Option Two: Explore the implementation of a city wide Article 4 Direction to remove permitted development rights and protect public houses.

Option Three: No further work to be undertaken.

Option Four: Another alternative approach to protecting public houses proposed by Members.

Analysis

Option One

37. Whilst it is not considered appropriate for the council to encourage an application to nominate a particular pub as an asset of community value, the council could promote the nomination process generally and provide general guidance on the process. Work could be undertaken to further engage with residents to publicise the list of assets of community value and the nomination process and provide guidance on how pubs can be nominated and protected. This could be done through relevant officers attending resident forum/parish council meetings for example or a briefing could be provided and discussed through the ward meetings.
38. In deciding to remove national permitted development rights for the change of use or demolition of those pubs that communities have identified as providing the most community benefit through the assets of community value process the Government indicated the need to enable local communities to consider planning applications for the change of use of a pub of particular local value. It was considered that this approach provided the right balance between protecting valued community pubs, but avoided blanket regulation which would lead to more empty and boarded up buildings. It was also considered that blanket regulation could also have adverse consequences on the asset value of pub buildings, harming the financial viability of the pub industry.

39. Pursuing this option would ensure that residents were made aware of the existing mechanisms available to provide additional protection to public houses. Promoting existing measures would give communities the information to decide for themselves if there are much valued public houses in their community that warrant protection through the register of community assets. Option One is therefore in line with the Government's approach to protecting public houses.
40. Should the promotion of the register result in additional pubs being nominated, from speaking with property services it is our understanding that the process from receiving and acknowledging a nomination to formal approval from cabinet decision session can take between one and three months, depending on the nature of the nomination, response from the owner, any potential appeal to the decision. This can take approximately four days of officer time, again dependent on the nature of the nomination, for example it can take longer if there are representations to assess and meetings with community groups to attend, as has been the case with recent nominations. Key stages for listing an asset of community value are as follows:
- Formally acknowledge nomination.
 - Advise owner of nomination.
 - Report to capital asset board for officer decision on the nomination.
 - Report to cabinet member decision session for formal decision.
 - If approved, eight week period for the owner to appeal the decision.
41. We have been advised from colleagues in property services that based on costs for one officer leading the project, work to process any additional nominations arising from promoting the register is likely to cost approximately half a full time equivalent estimated at around £15,000-£20,000 plus additional staffing resources where necessary, alongside consultation costs of £1,000 to promote the register. This is a total estimated upfront cost of approximately £16,000 to £21,000 plus additional staffing resources to support the officer and assistance with the promotion. There would also be the increased costs incurred as result of more applications being received. More information can be found at Annex E.

42. Following the example of the Punch Bowl public house, any requests for immediate Article 4 Directions could also be explored and implemented on a case by case basis where there is an urgent, justified requirement to ensure the protection of the city's public houses that may be at risk. In order to make a direction with immediate effect, there is a legal requirement that the council must consider that the development presents an immediate threat to local amenity or prejudices the proper planning of an area. It should be noted that the withdrawal of permitted development rights from a pub does not necessarily mean that planning consent would not be granted for any change of use. Through the planning process, the council would need to assess any application against national and local planning policy and any other relevant material planning considerations. Therefore, the outcome may still be the loss of the pub.
43. It is also relevant to take into account the potential financial consequences to the public purse of making an immediate Article 4 Direction detailed in paragraph 21. Any request for an immediate direction would need to be given careful consideration given that immediate directions would open up the possibility of compensation being claimed, payable by the local authority.
44. Both these approaches would give pubs protection by removing permitted development rights and requiring a planning application to be submitted to change the use of the pub. Without these mechanisms there is nothing to prevent the change of use of a pub to a use falling within use class A1 (shops). A local planning policy framework should be prepared by the forward planning team to be used to determine any planning applications resulting from pubs being listed as assets of community value or covered by an Article 4 Direction. The further necessary work on a policy approach is likely to cost nearly £8,000 plus additional staffing resources where necessary and consultation costs of £500. There would also be a requirement to commit resources, post implementation to monitor the policy approach.

Option Two

45. Government guidance is clear in stating that use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. It states that the potential harm that the direction is intended to address should be clearly identified and that there should be a particularly strong

justification for the withdrawal of permitted development rights relating to a wide area. The council would need to be satisfied that there was sufficient evidence to warrant the blanket removal of permitted development rights across the city for public houses. To date, it would appear that sufficient evidence does not exist to demonstrate that a change of use would harm local amenity or the well being of the area.

46. It is also necessary to clearly set out in any Article 4 Direction to what development it relates to. It would not be possible to relate an Article 4 Direction just to traditional, community pubs as a result of the way public houses are classified by the use class order. Public houses are covered by the A4 use class which covers all drinking establishments, including public houses, wine bars and other drinking establishments, but not night clubs. It would not be practical, nor is there likely to be sufficient evidence to justify the removal of permitted development rights for all drinking establishments on a city wide level.

Option Three

47. Technical work to date indicates that option one is appropriate and further work could be undertaken to more widely promoting the provisions for nominating pubs as assets of community value. However, it is considered that based on the information available about the loss of pubs, particularly losses to residential use which can be controlled through the planning application process, there is no immediate threat to the loss of public houses from change of use. In addition, the financial implications set out in paragraph 49 indicate there is currently no budget to resource the additional work proposed. As such Members may wish to pursue option three which is for no further work to be undertaken. Under this option, pubs will still be protected through the planning application process where permission is required, for example for change of use from pub to residential. Residents still have the opportunity to nominate local pubs as assets of community value and the Council will consider any request for immediate Article 4 Directions for specific public houses where there is a justified and urgent requirement for protection.

Option Four

48. Members may wish to propose an alternative approach or request officers to undertake further work.

Council Plan

49. The options outlined above accord with the focus on frontline services priority from the Council Plan, specifically the aim for a city where all York's residents live and thrive in a city which allows them to contribute fully to their communities and neighbourhoods.

Implications

50. The following implications have been assessed:

- **Financial** Pursuing option one has financial implications for property services of between £16,000 - £21,000 and for planning and environmental management of approximately £8,500 plus additional staffing resources where necessary. Additionally:
 - Compensation for certain assets of community value listings - Subject to specified exceptions, a landowner or former owner of land is entitled to compensation from a local authority if, at a time when that person was the owner of the land and the land was listed on the local authority's list of assets of community value, the person incurred loss or expense which would be likely not to have been incurred if the land had not been included on the list. The amount of compensation is determined by the local authority.
 - Compensation for immediate Article 4 Direction - Compensation may be payable to those whose permitted development rights have been withdrawn as outlined in the body of the report.
 - Where an Article 4 Direction is in place, the council is required to waive the planning application fee, which is usually £385. Should any future planning application be refused and be the subject of an appeal, the council would be likely to incur further costs.

There is no budget available to fund the additional resources. Should Members wish to pursue option one additional resources (c £30k) will need to be identified as part of the future budget strategy due to be considered in February 2016. There are also potential unspecified costs which the council may be liable and these would need to be considered as part of any Article 4 Directions. This would deal with resourcing

from April 2016. Should Members wish to resource from now it is likely that a bid from contingency would be required.

- **Human Resources (HR)** None
- **Community Impact Assessment** A Community Impact Assessment (CIA) has been carried out which has identified no impact. It does however highlight the benefit that pubs bring to communities including in particular communities of interest who use pubs as a neutral/safe place to meet is a positive one and therefore should resources be identified and further work to protect pubs be undertaken the resulting impact would be positive. The full CIA is attached to this report in Annex F.
- **Legal** Whether to make an Article 4 Direction is a discretionary power to be exercised in accordance with the principles of Wednesbury reasonableness. An Article 4 Direction should only be made if Members are satisfied that the legal and government policy tests have been met, as set out in the body of the report.
- **Crime and Disorder** None
- **Information Technology (IT)** None
- **Property** Included in report.
- **Other** None

Risk Management

51. In compliance with the council's risk management strategy, the main risk in undertaking work to provide additional protection for public houses in line with options one and two are the financial risks relating to the impact on planning and environmental management resources arising from the additional work required to provide greater protection to public houses. This may have associated risks for planning and environmental management's ability to continue to deliver outstanding projects, including the local plan. There are also financial risks for property services. Measured in terms of impact and likelihood, the risks associated with this report have been assessed as requiring frequent monitoring.

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**Report
Approved**



Date 16/10/2015

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Wards Affected:

All

For further information please contact the author of the report

Background Papers: None

Annexes

Annex A: Location of Pubs across York (as at September 2015)

Annex B: Information from licensing on loss of pubs

Annex C: Change of use planning applications resulting in the loss of 'traditional' public house over the last 10 years

Annex D: Planning applications resulting in the creation of a drinking establishment (use class A4) over the last 10 years

Annex E: Breakdown of work required for property services to process additional nominations

Annex F: Community Impact Assessment

Glossary of Abbreviations

CAMRA - Campaign for Real Ale

GPDO - General Permitted Development Order

NPPF – National Planning Policy Framework