

Public Houses: How councils and communities can save pubs

Summary

LGiU recently published "Public Houses: How councils and communities can protect pubs", in partnership with CAMRA, the Campaign for Real Ale. It was launched at our Members' Drinks Reception, at the Goat & Tricycle, near the LGA Conference in Bournemouth.

The report looks at the vital that councils can play to support communities seeking to protect pubs from redevelopment. Based on a series of interviews with councillors and officers, it builds a picture of the current powers and tools available to local government, how they are being used, and where the significant gaps are. These include:

- Local plans, core strategies, and supplementary planning guidance, which all offer the opportunity to specify that public houses be protected.
- National Planning Policy Framework, which contains specifications for "community facilities".
- Article 4 powers, which remove permitted development rights and require planning permission approval before a building is redeveloped
- Legislation in the Localism Act 2011, which allows communities to list pubs as Assets of Community Value

The report also includes in-depth case studies that demonstrate a range of approaches adopted by councils and communities.

The most successful in this area proactive and creative, with a clear understanding of what communities needs and the places and neighbourhoods that they want to build.

The report is available here: www.lgiu.org.uk/public-houses.

Briefing in full

British pubs are going through a turbulent time. In March 2014 CAMRA reported that there are 28 net pub closures every week in the UK (1,300 a year). This is a cause for alarm in itself, but the rate at which closures have increased is especially worrying for the industry: in the last six months of 2011 the number of pubs closing per week was 16.

Pubs are more than just businesses, and more than just drinking establishments. They provide a very real and important service to many communities, in a variety of ways. They help to strengthen social networks between people who might not otherwise meet, host events, clubs, and meetings that are necessary for community cohesion, and they are often central to local history and heritage. Once they are gone it is difficult to bring them back.

Many communities are, therefore, concerned to protect these important assets. Recent legislation, in the Localism Act 2011, gave communities the right to nominate assets that they felt were particularly valuable. This is a positive development as it begins to give power back to citizens so that they can start to make the decisions that shape the places they live in. However, as things currently stand this does not give sufficient powers at the local level to fully ensure that pubs are protected.

Local authorities also have a decisive role. They have the capacity and the tools to make real change by designing planning policies to shape the environment in the interests of the communities they serve. The National Planning Policy Framework (NPPF) is often overlooked as a tool that councils can use to this end, but it contains a number of points which empower them to protect pubs in urban, as well as rural areas. Strong local plans are widely seen as the most powerful tool for councils to proactively protect pubs.

There is a widespread desire among councillors and officers in local authorities to take on the challenge. In a survey of English local authorities, conducted by CAMRA between March and July 2013 for the All Party Parliamentary Save the Pub Group, **the overwhelming majority of respondents (45 out of 49) said they did consider pubs as valued community amenities worthy of protection.** However, **33 out of 49 local authorities disagreed or strongly disagreed that existing planning regulations give sufficient protection to public houses from change of use or demolition.**

Local authorities have access to a selection of tools with which they can make proactive interventions into the planning process. They include:

- Local Plan, Core Strategy, and Supplementary Guidance documents.
- Relevant sections of the National Planning Policy Framework that requires authorities to plan for the provision of community facilities, including pubs.
- Listing buildings as Assets of Community Value
- Article 4 directions, which remove permitted development rights so that developers are required to seek planning permission before demolition or conversion of building.
- The Sustainable Communities Act
- Local heritage listings and conservation areas.

Interviews

In order to establish how local authorities were using the tools at their disposal interviews were conducted with seven councillors and eight officers from local authorities across England.

There is a strong sense in the interviews that pub protection policies work best where they are a part of a coherent, place-based approach to planning that seeks to shape the environment in the interests of the community. Wider debates about public health, local economy, successful high-streets, citizenship, and participation all play an important role in making this meaningful. The councils that have found things particularly challenging are those in which there is no support and where planning is driven by other targets, or left to market forces.

Though ACV legislation by no means solves all of these problems, it does start a conversation between the council and citizens, as well as between different tiers of local authorities and the parishes. This is an important step in galvanising a sense of pride and ownership in the things that exist within our communities.

Identifying community pubs

How local authorities identify and categorise community pubs varies significantly from place to place and is instrumental in the approach that councils take to the issue overall.

Some identified the danger of being too prescriptive about what would or would not constitute a “community” pub. There was concern that this might draw planners into detailed decisions about specific assets, rather than putting more robust policies in place. Jonathan Wade, at Royal Borough of Kensington and Chelsea, emphasised that designating a pub as a “community” facility was an arbitrary decision on the part of the local authority. It was seen as more effective to protect all public houses, regardless of what they “should” or “should not” be providing, because this allows the council the flexibility to defend a whole range of assets if they are seen as important to the community.

Assets of Community Value

There was widespread understanding in the interviews that ACV is a partial solution to the problem of widespread pub closure. They are an important tool for local authorities, though, as they help to buy time, to galvanise the community behind a campaign, and potentially deter owners and developers from selling or redeveloping their pubs.

However, Tessa Blunden, leader of the campaign to list and then buy the Ivy House in Nunhead, South London, commented: “ACV listing is only the start, the hard work really starts after. For example, there is no necessity for the owner to sell, even if you can raise the money.”

Gordon Glenday, Head of Planning at Waltham Forest, commented that pubs are included as part of the “social infrastructure” in their Core Strategy, which the planning inspectorate has approved for protection alongside high-streets, roads, health services and so. An ACV listing would bolster this association and strengthen the argument that a pub should be retained. Another commented that though their local authority has not listed any ACVs so far, the local plan is being drawn up and it will contain a specific recognition of the weight of a listing in planning decisions.

Local plan and Core Strategy

Having a strong Local Plan was widely seen as one of the most powerful ways for local authorities to protect pubs in both urban and rural environments. They help to formulate a coherent approach to planning that is responsive to an individual area and provide an opportunity to engage in proper consultation with the community, so that the plan represents the actual needs and aspirations of citizens.

Guy Nicholson from London Borough of Hackney stressed how a coherent local plan can be transformative but that it is essential to involve local people at all stages of its production.

There are different techniques in how these tools are deployed, which reflect different conditions on the ground and different aspirations within the council. This also points to a contrast in the evidence that different councils use for their planning decisions.

A plan is enhanced by ensuring that more than one policy applies to pubs. Jonathan Wade, from RBKC, said that the use of an asset is an important contributing factor in its character. Policies to protect the character of an area can, it was argued, be used to resist change of use, on the grounds that “use contributes to character.”

A robust plan, that will be passed by the planning inspectorate and then achieve its intended outcomes, relies on a good evidence base. The Cambridge Public House Study is an example of best practice here and there was general agreement that good evidence was essential. It was not universal, however. Interviewees in rural areas argued that they knew where the community pubs were and where the biggest threats were to their existence. There was no need for a formal exercise to establish this, as it would be difficult and costly.

There have been stipulations in many local plans to protect “social infrastructure” and “community facilities” with guidance showing that this covers public houses. This is intended to emphasise specifically what it is that pubs offer to the community. For others, though, it is important not to be too prescriptive so that the council has the flexibility to cover a wider variety of assets.

Article 4

There is only a limited number of cases of councils using Article 4 directions to block the redevelopment of pubs by removing permitted development rights. There were a number of interviewees who said that their local authority was seeking to expand its use of Article 4 directions in the future, however.

The potential benefits were raised in interviews. The desired results might not be realised in their entirety, noted the officer from North Devon, but “The best use of Article 4 is to maintain a level of control – even if redevelopment is permitted.” As with the ACV agenda, a great deal of persistence is needed on the part of the local authority to make it work.

They are widely seen as problematic, however, because of the resources and time needed to set up. There is also the threat of compensation, which seriously puts off most councils, and a great deal of confusion over how and under what circumstances to apply Article 4 directions.

The threat of compensation was seen as one of the key barriers to the use of Article 4. This is in addition to the cost and the resources necessary to put them into place. C’lir Guy Nicholson from London Borough of Hackney said that given how time consuming and complex the process around Article 4 is “we have to seriously consider whether this is an appropriate use of public money.”

There is also a great deal of uncertainty as to how they actually work, and in what instances the local authority is able to implement them. Officers reported conflicting legal advice, which left them unsure about the appropriate course of direction to take within the council.

National Planning Policy Framework

Some councils interviewed found that sections of the NPPF were particularly useful, especially sections 28 and 70. Those who have used the framework successfully, however, as demonstrated by the case study of Cambridge City Council, said they did so because they read the Framework thoroughly and confidently took up the sections that offered some support.

In general, however, there was a mixed response to the NPPF in interviews. Some see it as not at all helpful, or even a threat to community pubs because of the emphasis that it places on building houses.

Aligning the tools

There is a strong sense in the interviews that pub protection policies work best when they are a part of a coherent, place-based approach to planning that seeks to shape the physical and social environment in the interests of the community.

Wider debates about the local economy, healthy high-streets, citizenship, participation, and public health have an important role in making this meaningful. Local authorities with a clear and coherent vision of the places that they want to shape were more likely to take a proactive stance that would protect pubs, as they would be able to align the various tools at their disposal behind a common purpose. Guy Nicholson commented that local authorities should see themselves as “curators of town centres and neighbourhoods”, with the confidence to align multiple agendas and use the available powers effectively.

Case Studies

Cambridge City Council

The pub protection policies in Cambridge City Council’s planning documents are rooted in a robust evidence base about the pubs market in the city.

Pubs in Cambridge have long been under threat from residential development in the area. Planners and councillors in Cambridge City Council decided to take action and to write pub protection policies into their local plan.

They were aware, however, that if they are to make changes to planning regulations they would need to have evidence to back them up. With that in mind GVA Humberts Leisure were commissioned to carry out a full audit and appraisal of the pub market in the city. This has helped the council to take firm action to protect pubs that have been threatened with redevelopment. Part of the motivation was to demonstrate how paragraph 70 of the NPPF should be interpreted with respect to pubs in Cambridge.

The study included background information about the pubs market and policies in place in other areas. Crucially, it analysed and classified the pubs in Cambridge, alongside a detailed mapping exercise that sought to show how much of the population lives within a 400m walk of a local community pub. There was seen to be a relative undersupply of pubs.

There was no precedent for such an exercise and to a great extent they were learning as they went along. For example, they made the decision that 400 metres was a good measure for suitable walking distance to the nearest pub, and made estimates as to the desirable number of local residents per pub. The audit found that Cambridge has a higher number of young adults per pub than other comparable locations, and the plan is intended to retain this level of provision.

Using this evidence, the council produced a set of rules applicable to a specific list of pubs and pub sites. These fed into the local plan and stipulate that a viability test is required before one of these sites goes through a change of use. The NPPF

provided a framework around which the pub protection policies were designed, so that pubs would be retained:

- If they are deemed to be needed as a community facility i.e. if there is a lack of alternative provision
- If they have not been marketed for 12 months as a going concern
- That loss or development of the building would detract from the character and appearance of the area.

London Borough of Lewisham

Imposing Article 4 directions entails complications, which often deter local authorities. Yet it is possible to overcome the challenges and make a successful case for blocking demolition, as London Borough of Lewisham Council has demonstrated. The council drew on many of the available tools to protect The Catford Bridge Tavern and The Baring Hall Hotel.

In 2011 the Grove Park Community Group (GPCG), in Lewisham were vocal in opposing plans to demolish and redevelop the Baring Hall Hotel, built in 1882. Though the council had signed off on the demolition plans, this was before the planning committee had considered the overall development and the GPCG managed to get a temporary injunction to block the decision. The planning committee then rejected the application.

A council meeting followed in September 2011 where it was decided to impose Article 4 directions, removing permitted development rights on the building.

The council drew on a range of the tools available, making sure that they all aligned:

- At the same meeting it was agreed to add the building to the Local List, which is set up under the Sustainable Communities Strategy to promote a “Clean, Green and Liveable” environment.
- The supporting document referred to Government Planning Policy Statement 5, which supports the retention of locally listed historical assets and states that “Local Planning Authorities should consider whether the exercise of permitted development rights would undermine the aims for the historic environment.”
- The London Plan (Policy 4B.12) states that boroughs should, “...ensure that the protection and enhancement of historic assets in London are based on an understanding of their special character...”
- The council’s pub protection policy, in its Core Strategy, states that a pub can only be sold once it has been marketed as a going concern for three years. Furthermore, the council will only permit the change of use of public houses to other uses where it has been demonstrated that there are alternative remaining public houses in the vicinity and that the potential for alternative community use of the building has been exhausted.
- The council also has a Development Policy, which asserts that “The Council will seek to ensure and encourage the preservation and enhancement of

locally listed buildings of townscape merit and will use its powers where possible to protect their character and setting.”

The case is similar with the Catford Bridge Tavern, which was subject of a planned conversion to a supermarket. Strategic Objective 4 of Lewisham’s Core Strategy is to protect the viability and vitality of town centres. This was influential in the decision, as were key sections of the London Plan and paragraph 152 of the NPPF, which states that

Local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three.

The pub was also locally listed and under an Article 4 Direction prohibiting conversion from its current Class A4.

The strength of the approach adopted in Lewisham is rooted in the way planners played to their strengths and used the policy documents they had. Having been saved from demolition, the pub reopened in November 2013 under the ownership of Antic London, who plan to run it in the interest of the whole community.

Babergh District Council

Babergh District Council have demonstrated the best that has been achieved so far in terms of imposing Article 4 directions in order to protect community pubs. To date there have been two imposed, in a rural area, both of which withstood an appeal to the planning inspectorate. The cases made at appeal were bolstered by using the available resources effectively, including relevant sections of the NPPF that seek to protect community facilities and the contribution of the building to local heritage and character.

Punch Taverns announced plans to demolish and redevelop The Highbury Barn, in Great Cornard, in August 2012. The council received Prior Notification of the plans, which is required so that the council can ensure demolition is conducted safely, but a large section of the community lobbied the council against the proposed demolition.

There has been a pub on the site since the 17th century and the building was considered by the petition signatories to be a local landmark as well as an important community facility and a building of historic importance. When they were made aware of the plans, the community submitted a petition, with 310 signatures, asking the council to do what they could to save the building. Great Cornard Parish Council played a part too, by helping to raise awareness, protesting against the plans and helping to gather signatures among the community.

Given the support within the community for the pub, it was deemed necessary for the council to take action. Article 4 direction was decided on as an appropriate course of action. By making planning permission a necessity for redevelopment, the

concerned community would now be assured of their chance to have a say in the process.

Punch appealed the decision on the grounds that that Highbury Barn was not a nationally listed heritage asset and that the proposed development would not harm the character of the area.

However, the council draw attention to paragraph 69 of the NPPF, indicating the importance of facilitating social interaction through the planning system, by creating healthy, inclusive communities, as well as paragraph 70, declaring that planning should guard against the unnecessary loss of valued facilities and services. Paragraph 135 (and the definition of a Heritage Asset in the frameworks glossary) was also considered to be significant in the case of the Highbury Barn as the pub was a non designated heritage asset.

The inspector found that while the pub is not a nationally listed heritage asset, it is of local importance and contributes to the “harmonious and settled character of the street scene.”

Furthermore, the inspector concluded:

the demolition of the Highbury Barn public house would result in the loss of a significant local heritage asset which makes a positive contribution to the street scene and local distinctiveness and which provides a historic link to the area's past, as well as providing a traditional focus for community and social interaction.

Article 4 directions are one of the most powerful tools available to local authorities to slow down or halt redevelopment, and to allow the community greater participation in the planning process. With the confidence to act it is possible for councils to be proactive and decisive in support of their communities.

Recommendations

A range of tools have been outlined in the report, and the responses of a number of officers, councillors and pub campaigners have been detailed.

- **Include pubs in planning documents** – Community facilities, public houses, and social infrastructure can all benefit from specific inclusion in planning policies. Relevant sections of the NPPF can help to shape and support a local plan in protecting community assets, while ACV listing brings extra weight in decision making.
- **Embrace Assets of Community Value** – While this is not a panacea it is an opportunity to start a conversation with the community and to build up the

capacity for a more proactive defence of the assets that are important to the community. Comprehensive guidance to getting pubs listed as Assets of Community Value is available from CAMRA.

- **Consider Using Article 4 Directions** – While there is a great deal of confusion surrounding the appropriate guidance, and many planners perceive the potential risks to be too severe, there is evidence of Article 4 being used successfully in a wide range of cases, including Babergh District Council, London Borough of Lewisham, and Cambridge City Council.
- **Consider Using Conservation Areas, Heritage, and other forms of local listing** - These can be used creatively and to great effect.

Conclusion

The agenda around community pubs is an important one for local authorities to engage in because they have the powers and the capacity to make a real difference. Local planning policy can be a powerful tool for protecting community interests, as the interviews and case studies in this report have shown.

The debate also addresses very important questions about the role of government at all levels and raises issues about how citizens and communities can actively participate in making meaningful decisions that affect the places they live in.

The creative and proactive approach demonstrated by councils such as Lewisham, Kensington & Chelsea, and Cambridge, among others, shows the positive impact that is possible.

There are limitations to what can be done with planning policy. Stretched resources and a host of competing priorities makes it challenging for councils to take action in this one area. But using these tools creatively, and in a way that engages and meets the needs of citizens is precisely what localism should be about. It has the potential to be practical, meaningful, and to work in the interests of citizens.