



# Public Houses:

**How councils  
and communities  
can save pubs**



**CAMPAIGN  
FOR  
REAL ALE**

**LGiU**  
the local democracy think tank

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# Contents

<b>Introduction</b>	<b>1</b>
<b>Context</b>	<b>2</b>
<b>Interviews</b>	<b>11</b>
<b>Case studies</b>	<b>20</b>
<b>Protecting your pub: a guide for planners and councillors</b>	<b>31</b>
<b>Recommendations for local government</b>	<b>34</b>
<b>Conclusion</b>	<b>35</b>
<b>Acknowledgements</b>	<b>36</b>



# Forewords

PUBS ARE very important. They play a variety of roles: they help create cohesion, they provide local character, they contribute to the local economy and they provide an important focal point for local communities.

This report sets out some of the ways councils can help to protect community pubs. In doing so they help to build places that are economically and socially sustainable: places that people want to live in.

In debating how best to protect community pubs, we need to ask important questions about the role of government and the capacity for citizens to participate meaningfully in public life. These themes are central to LGiU's mission of empowering local communities.

The relationship between local government and citizens has a crucial democratic premium, but is also a practical necessity. By working together communities and councils can accomplish more than either can alone.

At LGiU, we aim to support local government in using its powers as creatively as possible to engage and meet the needs of citizens. Localism has the potential to be practical and meaningful if it can generate responses to the challenges local communities face that are locally appropriate and which draw on the creativity and energy of local people.

It's important to get this right, to develop and strengthen the capacity for communities to shape their environment and make decisions that affect their lives.

Pubs are not the only part of this of course, but this is an exciting opportunity to engage with communities and we hope that this report will help to equip more councils with the tools, resources and confidence to do so.

**Jonathan Carr-West**  
**Chief Executive, LGiU**

THANK YOU FOR taking the time to read this report and giving thought to how you can protect much loved and valued community pubs.

Pubs are a part of the fabric of life in this country and can play a pivotal role in your work as a champion of your community. For many, community pubs are about bringing people together and are an icon of British life, but unfortunately too many are closing their doors for good – current figures show 28 pubs close every week.

The reasons behind these closures are not as simple as a badly-run business or a changing marketplace; there are many external factors and pressures which have a bearing on pub survival. Soaring property prices and gaps in planning law mean that all too easily a community's favourite local can be turned into a supermarket, flats or even demolished – siphoning money out of the local economy and damaging community wellbeing and cohesion.

Pubs have the ability to adapt and cater for changing lifestyles while still remaining at the heart of the community but like any small business they need support, investment and protection.

CAMRA is a not-for-profit consumer campaigning organisation with 165,000 members. Our vision is to have quality real ale and thriving pubs in every community. Every day we are called upon for help from communities campaigning to save their local pub from redevelopment. We do what we can to assist, while also lobbying government to change legislation to protect pubs, but the last line of defence is frequently in councils' hands.

The purpose of this report is to provide an overview of challenges faced by both councils and communities, and advocate the powers available to protect community assets, sharing best practice on how councils can be that last line of defence.

As demonstrated by the many case studies in this report we want councils to adopt strong pub protection policies in Local Plans, see the potential in the community right to bid and consider alternative ways of protecting pubs in light of weak national planning law. But central government doesn't get off the hook: we want action to add to councils' toolkit of powers to support pubs by strengthening national planning law, so communities and councils always have a say in the future of their neighbourhoods.

CAMRA is grateful to the trailblazing councils that are leading the way in pub protection. We want all councils to follow suit and we hope the ideas in this report provide a useful starting point.

Cheers!

**Colin Valentine**  
**CAMRA National Chairman**



**“45 out of 49 local authorities said they did consider pubs as valued community amenities worthy of protection, yet 33 felt that existing planning regulations do not give sufficient protection to public houses from change of use or demolition.”**

# Introduction

The pub industry is going through a turbulent time. Establishments are closing at an alarming rate up and down the country. This is a worrying prospect for the landlords and owners of those pubs, but it also presents a worrying picture for many communities.

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.

Action is required to assist councils in performing this role, though. In a survey of English local authorities carried out on behalf of the All Party Parliamentary Save the Pub Group, 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. 41 of 49 responded that they would like planning permission to be required before a pub can be converted.

This report sets out to demonstrate the tools that are currently available to local authorities in England, how they are being used, and aims to encourage councils to be proactive, confident, and to engage with their communities to protect treasured assets.

# Context

*This section establishes the social and economic value of community pubs, building on previous research, and sets out why it is important to look for ways for local authorities to unlock that value.*

Pubs have the potential to bring a great deal of value to communities up and down the country. In a recent report, IPPR<sup>1</sup> calculated that beyond the immediate economic turnover they produce, pubs typically add £80,000 to local economies every year. They generate more revenue and jobs per pint of beer, than beer sold through supermarkets, for example.

They also provide a range of social benefits and have a vital role as a hub in many communities. Part of this role involves bringing together members of the community who may not otherwise interact with one another.

There are real positive outcomes associated with this, including increased community cohesion, a sense of belonging, and wellbeing. Through community-oriented events and activities, they add to the civic life of an area, but they also enhance the heritage and cultural identities that make individual locations unique.

They are diverse places, offering an array of services including libraries, childcare, meeting spaces for community groups, and shops. The old stereotypes are slowly breaking down in many ways, as well. Pubs are no longer the male-only, anti-family places they may once have been perceived to be. A great deal of this can be attributed to the increased quality and diversity of what pubs offer.

There are other benefits associated with community pubs. While alcohol has many damaging effects, this is often due to a minority of venues. Community pubs tend to offer a more regulated environment for safer, more moderate drinking that causes less disturbance and disorder.

## The threat to pubs

Despite the immense value they bring to our communities, 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.

A number of factors are associated with this sharp increase:

- rising costs faced by landlords
- high rents, particularly in urban locations
- increasing land value, which raises the amount developers are prepared to pay
- the high price of alcohol in pubs as opposed to the supermarkets and off licences

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<sup>1</sup> Muir, R (2012) *Pubs and Places: The Social Value of Community Pubs* London: IPPR

- competition from alternative leisure pursuits.

Once these pubs have disappeared, been demolished, or redeveloped it is very hard to replace them. If this trend continues, we risk losing something of great value to our communities.<sup>2</sup>

## Why should this matter to local authorities?

Meaningful engagement between government and citizens has a democratic premium. It enables them to build communities that they want to live in and that meet their needs.

But localism is also a practical necessity. Complex problems are rarely solved by one-size-fits all solutions. The challenge of pub closures is different in different areas. Innovative responses to that challenge must reflect that difference by being flexible and adapting to local circumstances. Crucially, to be effective it will also need to draw on the energy and ability of local people.

Localism demands the participation of citizens in shaping the environment they live in by exerting real influence on decision-making. Centralised, or market controlled planning is less responsive to individual contexts and places. It is also less well disposed towards reinvigorating local civic economies that draw on and fit around the needs, aspirations, and creative energies of local people.<sup>3</sup> Planning is a key mechanism with the potential to make this kind of engagement a reality.

Losing these important assets will have implications beyond the direct value that they bring to communities, therefore. The

rate of closure and conversion of treasured community facilities also indicates the level of participation and influence that communities have over the planning process. Where assets disappear that once had a central role in the social infrastructure, or held particular value for the community, it indicates that concerned citizens are unable to have any meaningful say over what assets exist in their communities, or to shape the physical and social environment that they live and work in.

The role of local authorities in this is crucial. They are the institutions through which citizens can engage in the decisions that affect their lives and they are well placed to align the interests of the state, the market and wider civil society with the communities that they represent. This requires local authorities to use the tools and powers at their disposal to enable innovation and drive towards real change.

## Unlocking the value

Unlocking the value that pubs can bring to communities is not always straightforward for local authorities. Although they have the aspiration and the will, it remains challenging for councils to act decisively when a community pub is under threat.

The competing priorities and limited resources that councils face make this difficult. The drive to build enough new homes to service increasing demand in Britain's rising population is, without doubt, a vital social and strategic goal that needs to be met one way or another. However, this does mean that council priorities and resources are being steered in a particular direction. The retention of pubs and other community facilities takes a backseat and will have to be fought for much harder.

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2 O'Connell, S (2013) *Keeping Local: How to Save London's Pubs as Community Resources* Greater London Conservatives

3 Carr-West, J (2013) *Connected Localism: A blueprint for better public services and more powerful communities* LGiU

Having said that, 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, it was widely felt that current planning powers, including the NPPF do not give local authorities the power they need to ensure pubs are retained. **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.**

Given the limitations, local authorities should think creatively if they are to be proactive and take action. *The Pubs and Places report*, from IPPR, acknowledged that there is no magic bullet that will eliminate the threat faced by community pubs. Rather, local authorities will need to equip themselves with a range of tools. The goal of this report is to establish what those tools are, and the best ways to use them.

## The tools at hand

Recent developments in government policy have shown a willingness to assist with some of the problems facing community pubs. The announcement in the 2013 Autumn Statement to relax business rates for small businesses will impact on most pubs in the country, for example.

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

- listing buildings as Assets of Community Value (ACVs)
- local plan, core strategy, and Supplementary Guidance documents
- relevant sections of the National Planning Policy Framework
- Article 4 directions
- the Sustainable Communities Act
- local heritage listings and conservation areas.

## Assets of Community Value

The Localism Act 2011 made provisions for communities to nominate important assets to be listed as ACVs. This places a six-month moratorium on sale or redevelopment and gives the community group in question the chance to raise the capital and put together a bid to buy the asset. Twenty-one signatures are required to submit a nomination, which then goes to the local authority for consideration. If it meets the criteria laid out in the guidance documents then the local authority will add it to its list.

Pubs lend themselves particularly well to this legislation and they are the most listed type of building. Currently over 450 pubs have been listed as ACVs. They often serve an existing community, so getting the requisite supporting signatures should not be a problem, and they tend to attract grass-roots support.

Guidance is available from the government on the ways in which local authorities can support the Community Right to Bid in their area.<sup>4</sup>

South Cambridgeshire District Council passed a motion in January 2014 to request that central government make changes to

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4 DCLG 2012 “Community Right to Bid: Non-statutory advice note for local authorities”

## Examples of strong local plans:

East Hampshire District Council incorporated a strong pub protection policy into its Local Plan. “Planning permission will only be granted for the change of use of a public house if one or more of the following criteria are met: a. no other potential occupier can be found following a realistic effort to market the premises for its existing use; b. substantial evidence of non-viability is submitted; and c. it is demonstrated that suitable alternative public houses exist to meet the needs of the local community.”

London Borough of Lewisham: “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.”

Royal Borough of Kensington and Chelsea: “The NPPF clearly intends Local Plans such as this Review to play their part in facilitating social interaction and creating healthy, inclusive communities. It says that planning policies should aim to achieve places which promote opportunities for meetings between members of the community who might not otherwise come into contact with each other. Our strategic objective to keep life local is for strong, effective local centres and for social and community facilities to be widely available and for neighbourhood functions, including neighbourhood shopping facilities, to be easily accessible so that residential communities can flourish.”

Broadland District Council’s Policy 6.29 is instructive here too: “Pubs are valuable social and community facilities and the Council will thus seek to prevent the loss of such facility. Proposals for change of use will not be permitted unless there is an alternative public house within walking distance / it has been demonstrated that the PH has been marketed for a reasonable period / no reasonable offers have been received to purchase or let the pub & it can be proven the property is not economically viable.”

remove permitted development rights when a building is listed as an asset of community value. This could add significant weight to the ACV legislation, giving local authorities more leverage in decisions that matter to their communities.<sup>5</sup>

Parish councils also have a key strategic role in carrying this agenda forward. In fact, parishes can nominate assets to be listed so

are particularly well placed to ensure that the message is spread among communities.

### *Local plan and core strategy*

Local plans and core strategies are important planning documents that clearly depict a council’s strategic approach to the management of the assets in its jurisdiction. The NPPF provides the background for

<sup>5</sup> <http://scambis.moderngov.co.uk/ieListDocuments.aspx?CId=410&MId=5965&Ver=4>

## Supplementary Planning Guidance

**Birmingham City Council has supplementary guidance, in place since 1992, which stipulates that anyone wishing to change the use or redevelop a pub must meet certain criteria against which planning applications will be considered. They include: impact of the pub's loss on the community; the nature and proximity of adjacent land uses; and highway considerations.**

**East Riding of Yorkshire Council has supplementary guidance that details the added value of having community pubs in rural areas: “The 341 public houses in the Rural East Riding directly employ over 3400 people in either a full time or part time capacity and indirectly support the employment of approximately 900 people through the purchase of supplies and services.”**

**Ribble Valley Borough Council issued guidance, which is similar in the way it is drawn up to retain rural pubs: “If no evidence has been submitted, no genuine attempts have been made to market the pub as a going concern or any realistic offers have been made but rejected by the pub and the pub is the last remaining pub or community facility within the village, then the Borough Council is likely to refuse the planning application. It is also likely to be refused if it is felt that the closure of the pub is likely to have a significant detrimental impact upon the visual impact, attractiveness and social or economic vitality of the village.”**

these documents, and feeds directly into the process of their production.

Councils are encouraged to draw up these plans, following local consultation, because without them it is more difficult to make the key strategic decisions governing local assets. It is here that the weight given to housing development comes in, because, thanks to the NPPF’s “presumption in favour of sustainable development”, the framework takes precedence where there is no local plan fully established. Local authorities need to be able to show a five-year supply of deliverable housing. Even where there is a plan in development, local planning authorities will have trouble blocking unwanted developments if they are pressed to meet this target.

There is plenty of opportunity for planners to use their local plans in innovative ways that

do actually prevent the loss of community pubs. There is also evidence to suggest that even where a plan is in development it may still carry material weight and bear an important influence in planning decisions.

There are numerous examples of pub protection policies that have been adopted into local authority planning documents. 35 of 49 respondents to the All Party Parliamentary Group (APPG) survey said their local authority “has adopted, or is in the process of adopting, a local plan policy aimed at supporting the retention of viable and valued public houses”.

A common theme in many of the local plans is that community facilities, including pubs, should be retained when they are viable assets. Viability can mean a number of things, but given the high rate of closure in the pubs market, making the business case

for keeping a pub as a pub is an important step on the way to preventing its redevelopment.

### *Supplementary Planning Guidance*

Many local authorities supplement their planning documents with detailed guidance and research that relates specifically to pubs. This is designed to assist decision making and to give more robust support for the retention of community assets.

### *NPPF*

The NPPF was drawn up by the government to serve multiple purposes. It was intended to increase the rate of planning approvals for new developments and to ensure adequate housing supply, while at the same to involve local people in the decision making process by encouraging the design of local plans.

The NPPF's "presumption in favour of sustainable development" means that the framework takes precedence where there is no local plan fully established. This has encouraged the perception among many councils that they are unable to block unwanted development because they might not be able to show a five-year supply of deliverable housing.<sup>6</sup>

However, within the framework there are a number of clauses that increase the power of planners to implement pub protection policies. They can also be used to help councils make decisions that favour the retention of community pubs.

### *Article 4*

Changing the use of a building, or demolishing it altogether, requires that certain regulations are followed. Often it is the case that planning permission is

necessary, which the Local Planning Authority will deliberate. For many changes of use, however, such as demolition or conversion to shops, betting shops and restaurants, no planning permission is required. These changes are covered by permitted development rights under the Town and Country Planning Act (1995) and mean that a pub can be turned from an A4 use such as a pub, to an A1 use, like a supermarket, without the approval of the local planning authority. Over 208 pubs have been converted to supermarkets since January 2012.<sup>7</sup>

The local authority does, however, have the power to remove these permitted development rights by imposing Article 4 directions on a particular building, or on an area. Once these rights have been removed, that development decision needs to be deliberated by the local authority.

There is a smaller number of cases where Article 4 directions have been enforced in order to protect pubs, compared with ACV. Just 13 of 49 survey respondents agreed that Article 4 powers are adequate to enable councils to protect pubs, while 27 disagreed or strongly disagreed. Only five respondents said that their authority had used Article 4 powers to withdraw permitted development rights for a pub or other community asset. There are a variety of reasons behind this. Local authorities are wary of resorting to this measure because it takes up precious time and resources, is complicated to establish, and has the potential to lead to legal dispute and compensation.

Issuing an Article 4 direction is a very powerful way for local authorities to at least slow down the process and ensure that there is public consultation, allowing communities the opportunity to make a case for retaining assets. They have been issued

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<sup>6</sup> <http://www.cpre.org.uk/resources/housing-and-planning/planning/item/3260-countryside-promises-planning-realities>

<sup>7</sup> <http://www.planningresource.co.uk/article/1230605/camra-details-pub-to-supermarket-conversions>

# National Planning Policy Framework

Section 28 of the NPPF provides explicit support for pubs that are important for tourism, or necessary as village facilities.

**“To promote a strong rural economy, local and neighbourhood plans should... support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors... this should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.”**

The Section also states that in order to promote a strong rural economy, local and neighbourhood plans should “promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.”

Section 70 of the NPPF stipulates that ‘to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- **plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments**
- **guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs**
- **ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community**
- **ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”**

## Article 4

Some comments from the survey give a clearer picture of the issues involved with implementing Article 4 directions:

**Waltham Forest Council:** “We are trying to, but the process and timescales involved are far too long and are well out of touch with reality.”

**South Oxon DC:** “Article fours are expensive and require a great deal of other resource. The default position should be to skip them.”

A respondent from Tendring DC was more positive, however, arguing that “Article 4 directions at least provide an opportunity for the impact of losing a pub to be considered but ultimately it might not always secure their protection.”

more widely to cover other assets, but there is a great deal of reticence among planners to impose them in the case of public houses.

Successful cases include the Highbury Barn, which Babergh District covered with an Article 4 direction in 2012 and backed up at appeal. More recently Cambridge City Council have imposed Article 4 directions to cover 20 pubs in a specific area of the city.

One of the key issues with using Article 4 directions is the aversion to risk among local authority planning departments. Proper guidance and legal advice could be decisive by encouraging greater confidence.

### *Sustainable Communities Act*

Under the Sustainable Communities Act (SCA) councils are able to pass motions to lobby central government to make adjustments to planning policy that shift power in favour of communities.

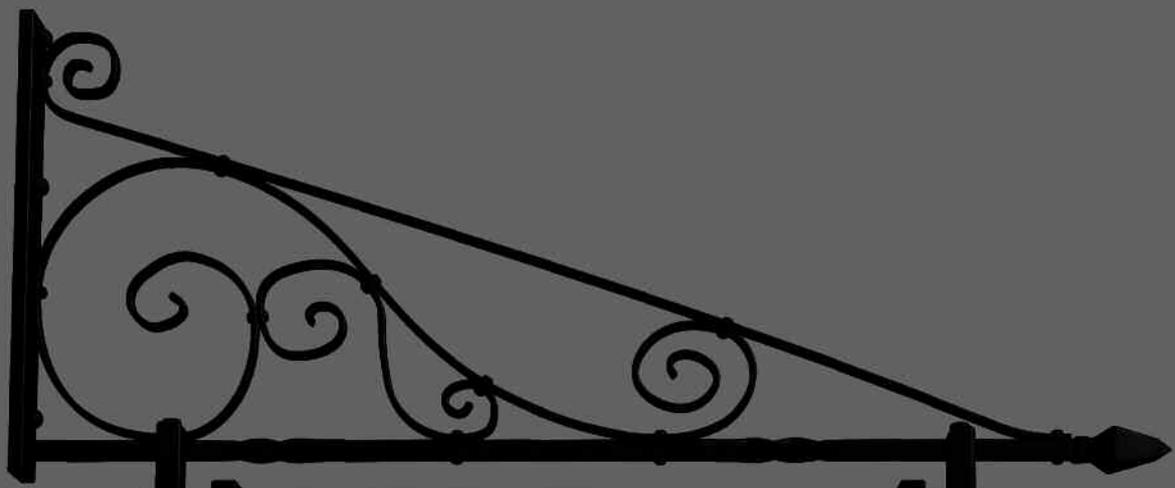
Applications to use the SCA are becoming more widespread. So far 35 councils have passed motions calling for central government to make changes so that planning permission is required when there is an application to convert or demolish a

pub. A further 26 are in the process of putting together similar proposals.

### *Support for the community*

Some councils, such as East Riding of Yorkshire, offer business support to community groups seeking to take over and run a pub. This support can be decisive and there are various ways that viability tests, such as that drawn up by CAMRA, could be used to bolster the case for alternative forms of ownership such as cooperatives or community share issues. In cases where the local authority is unable to offer direct material support, it can give helpful signposting to other sources, such as the Architectural Heritage Fund, which gave a substantial grant to assist with the community buy-out of The Ivy House, in Nunhead, the first community-owned pub set up following ACV listing.

*In order to understand the ways local authorities understand these powers, how they are using them, and the confidence that they have in them, LGiU conducted a series of interviews with councillors and planning officers. The next section demonstrates the findings of the interviews and outlines the main themes and concerns that arose.*



**“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.”**

# Interviews

*This section lays out the key themes and concerns that arose from interviews with councillors and officers in local authorities. It covers the general issues that were discussed, as well as looking in detail at the implications for specific planning tools*

There are specific challenges relating to the actual use of the powers outlined in the previous chapter. Some of these challenges relate to the aspirations within the council, some to the legislation and regulation covering planning policy and others relate to the level of understanding and confidence in each of the powers.

In order to establish how local authorities were using the tools at their disposal interviews were conducted with seven councillors and eight officers from Cambridge City Council, Derbyshire Dales Council, London Borough of Lewisham, Norwich City Council, London Borough of Waltham Forest, North Devon District Council, North Somerset Council, London Borough of Hackney, Uttlesford District Council, London Borough of Kingston, Walsall Metropolitan Borough Council, Royal Borough of Kensington and Chelsea, Staffordshire Moreland DC, and LB Wandsworth. Leaders of Save the Ivy House and Save the George and Dragon campaign groups were also interviewed.

There is a strong sense in the interviews that public 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.

## Key Findings:

- There was broad agreement that using a package of tools was the most effective approach, rather than relying on one or two.
- The attitudes and aspirations towards Community Pubs and Assets of Community Value vary widely in different local authorities. Some have a clear idea of a “Community Pub”, others do not see it as so important to designate the “community” purpose.
- ACV legislation is important as a means of galvanising the community, raising awareness and starting a conversation amongst citizens about what they value in their local area.
- The direct impact of ACV was seen as limited, though it can be used as a material planning consideration.
- Working with Parishes, where relevant, is seen as an important element of engaging with communities – they are expected to communicate ACV agenda to communities and to be a liaison between the two parties
- Some do not take a stance and simply follow the regulations when a group applies for ACV status, while others are actively engaged in promoting the agenda and communicating with parishes/communities.
- Local plans and core strategies are seen as very important tools. There are good examples of these being used to good effect.
- There is varied understanding of how Article 4 directions work– there is a particular need to clear up confusion over compensation, timing, and viability.
- Perception among some councillors that officers do not see something like ACV as an important issue and so employ a very dry interpretation of the law and regulation.

## Aspirations

There was an aspiration to defend community pubs in most councils, though there was seen to be a variation in how widespread this was within the council.

Gordon Glenday, head of planning policy and regeneration at Waltham Forest commented: “There is a great deal of aspiration in the council to pursue this agenda and defend

community pubs. They are a key part of the fabric, culture and history of the East End.”

Guy Nicholson, a councillor from Hackney, commented that it was a significant and important part of the role of the council to stand up for the community and defend the assets that are important to them.

Determination is important, however, for councillors who want to take this forward.

Tina Jukes, from Walsall Metropolitan Borough Council said that “it is difficult and there are lots things that will go against you but you have to keep battling,” if you are going to succeed.

Political support was seen as another important factor in building this aspiration. In councils where a leader or local MP was supportive of the agenda there was, unsurprisingly, a more proactive approach. The political orientation in other local authorities meant that planning was more directly guided by the market. Though legislation such as ACV would be adhered to and regulations followed, there was unlikely to be any specific ‘pub friendly’ policies.

## Threats to pubs

The chief threats to community pubs that interviewees identified were house prices and high land value. This was felt in all areas, but particularly keenly in London and Cambridge, which saw the highest percentage rise in house prices in 2012-13.<sup>8</sup> The potential profit from selling to a developer outweighs what can be made from even a very successful business. Many felt that the NPPF added pressure to local authorities to prioritise delivering housing targets over retaining a mix of assets in their communities.

*Liam Curran, a councillor at London Borough of Lewisham, said: “Land value is causing the loss of pubs, not wider factors such as the smoking ban, beer price, and so on. It is a perfect storm because it combines with the battle for market share amongst the big supermarkets.”*

## 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 highlighted 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.

It was argued that the best approach is to put in place wide ranging policies that protect community facilities more generally. If it was too specific, then owners and developers may “game the system” by changing their offer so that they are no longer subject to the regulation.

There were some, however, who felt very strongly the need to emphasise the “community” aspect. Having a detailed classification of the different uses and assets being defended was seen to enable some councils to make a more robust case, building their confidence while also helping to engage with the different communities who use those assets.

A planning officer in rural North Devon felt that an assessment of the viability of a pub went hand in hand with its position as a community asset. Being a rural area the proximity of assets is more of a key issue than in an urban environment, meaning that the retention of a certain number of community facilities becomes more of a pressing issue.

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<sup>8</sup> Centre for Cities Outlook 2014 p.52

## Assets of Community Value

There was widespread understanding in the interviews that ACV is a partial solution to the problem of widespread pub closures. 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.”

There was mixed opinion as to whether an ACV listing could carry material weight in a planning decision by itself, though it was generally seen as adding to the list of reasons to retain an asset. The policy statement from the Department for Communities and Local Government states that it is down to the local planning authority to decide whether to consider listing as an ACV as a material consideration in an application for change of use.

It was widely agreed, however, that listing carries more weight as part of a package of measures used by local authorities.

Mark Forrester, community service manager at Staffordshire Moorland District Council, was clear that ACV listing “can be a material consideration and add important extra ammunition to a community’s case”.

Gordon Glenday, head of planning at Waltham Forest, said that pubs were included as part of the “social infrastructure” in the authority’s 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 its local authority had 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.

*As the first pub to be bought by the community following ACV listing, The Ivy House is an interesting case. The Save the Ivy House’s success, according to Tessa Blunden, lay in their diverse mix of skills, but it was noted that “constant contact with the owner and a lot of persistence helped because we had to let him know that the group was serious”.*

## Talking to the community

The principle benefit associated with ACV legislation and local planning was almost universally felt to be the conversation it can start between the council and citizens.

One councillor said that “a lot of a councillor’s role is about encouraging people to get galvanised about these issues... to get out there and take an interest in what’s around them”, which the ACV legislation certainly helps to facilitate.

This was seen as an important step in building a sense of pride and ownership in the assets that exist within communities, giving a positive message to communities to encourage them to think about what they have in their local area, what it is for, and what they can do together.

In Royal Borough of Kensington and Chelsea the local plan demonstrated that “the community was galvanised and the loud support for retaining the pubs demonstrated that they did have value to the community in their current use”, according to Jonathan Wade, leader of the planning policy team in the council.

Engagement between the council and citizens often centres around parish councils

as they have a vital role as mediator in this relationship. One interviewee said that engaging with parishes was an essential aspect of the ACV agenda, while another from North Devon said that they were a vital point of communication and know the conditions on the ground. Being able to respond to demand, or to help build support for individual cases, makes the process of listing an asset far easier.

Some local authorities, such as High Peak Borough Council, flagged the legislation to parishes in the early stages of the Localism Bill and the council continues to meet regularly with parish forums. This has enabled them to build a conversation with the community. Dialogue was important, as the legislation is still relatively new and all the parties involved are learning as they go.

The majority of interviewees highlighted the importance of parishes promoting the use of ACVs in rural areas and feeding information back to the council. They are particularly well placed to champion individual cases and build up community support.

One planning officer said that working with parishes in this way was also likely to encourage them to set up neighbourhood plans, or pursue other initiatives like applying for public works loans, increasing local control of assets. This report profiles a parish council, Bishampton & Throckmorton, which did just that, enabling them to buy a pub and to run it as a community asset (see *page 23*).

There is a lot of responsibility for parishes to assume, however. They are often also involved in other forms of asset transfer work and getting ACVs listed is not always a priority.

Some councillors who were interviewed indicated that their approach to ACVs was different to that of officers. Some officers, it was suggested, did not see the legislation as of particular importance and so were more

likely to interpret the regulations very rigidly, rather than seeking to make them work in the interest of the community as much as possible. One interviewee commented that, as a councillor, they felt they had less expertise and experience of planning than officers and so it was not always easy to collaborate on an equal footing.

It was also indicated by many of those interviewed that ACVs are a more useful tool in some areas than in others. Some argued that they were more likely to have a direct positive impact in rural areas, where galvanising a local community around one specific asset would be easier, while others argued that the costs in urban areas would be too high and most community groups would be unable to raise the capital.

## **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 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.

*A plan is enhanced by ensuring that more than one policy applies to pubs. Jonathan Wade, from Royal Borough of Kensington and Chelsea, 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”.*

It was commented that even if a local plan is not finalised it could still be used as a material consideration in a planning application, meaning that the council is empowered to intervene, while an officer from Derbyshire Dales District Council commented that the local plan currently being drawn up will include recognition of ACV status as a material consideration in planning decisions.

*Andrew Taylor, assistant director of planning and building control at Uttlesford District Council, said: “There is a lot of potential in the planning policy – if it is linked to the ACV listing and there is a specific policy which ensures a marketing exercise is followed for a year to ascertain whether or not a pub is a going concern.”*

Again, this was not universal, with some commenting that due to changes in planning regulations their local plans have lost their effectiveness. Also, although councils are becoming aware that they can incorporate pub friendly policies into their local plans, it is not a practical solution for many who have already agreed them.

The case studies in the next section (Page 20) show local plans are being used to good effect in urban and rural areas.

## Article 4

There is a limited number of cases of councils using Article 4 directions to block the redevelopment of pubs, though 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.

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 puts off most councils, and a great deal of confusion over how and under what circumstances to apply Article 4 directions.

Cambridge City Council and Clyde Loakes from London Borough of Waltham Forest, among others, said that the threat of compensation was 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.

Councillor 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 was 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.

One interviewee noted that a key problem with Article 4 directions was that it is essentially a reactive strategy, leading the local authority into a protracted appeal process which takes up time and resources, potentially leading to a large compensation bill. If there were more clarity over the legal and financial implications of using Article 4 and guidance over where use was appropriate, then there would be more confidence in local authorities that this was a legitimate avenue to pursue.

## NPPF

Some councils interviewed found that sections of the NPPF were particularly useful. In general, however, there was a mixed response to the NPPF in interviews. Some saw it as not at all helpful, or even a threat to community pubs because of the emphasis that it places on building houses.

*A councillor from Cambridge City Council said that the first piece of advice he would offer would be to read and understand the Framework as it gives useful guidance and was a strong basis for the work the council is doing to protect pubs.*

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.

## Viability

Some, such as North Devon, emphasise the importance of viability, with a stipulation in the plan that a marketing exercise must first be agreed among officers, and then tested on the asset to see if it is a viable business. When the decision over viability is marginal a consultant is used to make a final decision.

The North Devon planning officer said: “There is a general will in the council to retain pubs where they are a viable concern. The policies in the local plan are there to support this aspiration. We would be more concerned with saving the last pub in a location, than saving one of several.”

The council in question also had mechanisms in place to refer pub owners to economic development teams to help them address the viability of the business. It was felt that this framework had saved some pubs from redevelopment, though it was still relatively new.

The North Devon plan stipulates that a marketing exercise is necessary to prove that an asset is not viable before it goes for redevelopment. The strategy, price and timing of the marketing exercise are agreed with officers and the Viability Test, drawn up by CAMRA, was seen as especially useful.<sup>9</sup>

Many interviewees noted that they had policies in place, which sought to defend against the loss of pubs by requiring that marketing and viability tests be carried out.

Lewisham’s policy, for example, stipulates that a pub cannot be sold unless

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<sup>9</sup> <http://www.camra.org.uk/viabilitytest>

marketed for three years as a pub. Others, however, such as Royal Borough of Kensington and Chelsea, avoid mentioning viability at all costs as they feel it might weaken the policy if owners and developers decided to conduct their own viability tests.

## **Sustainable Communities Act**

Applications to use the Sustainable Communities Act are becoming more widespread. So far, 35 councils have passed motions calling for central government to make changes so that planning permission and community consultation is required when there is an application to convert or demolish a pub. A further 26 are in the process of putting together similar proposals.

Amy Stammers, a Norwich City councillor, said that she felt the SCA gave power to communities to influence decisions, even if they vote for redevelopment. The Act was praised as a means of building coalitions of multiple councils to put a substantial proposal to government.

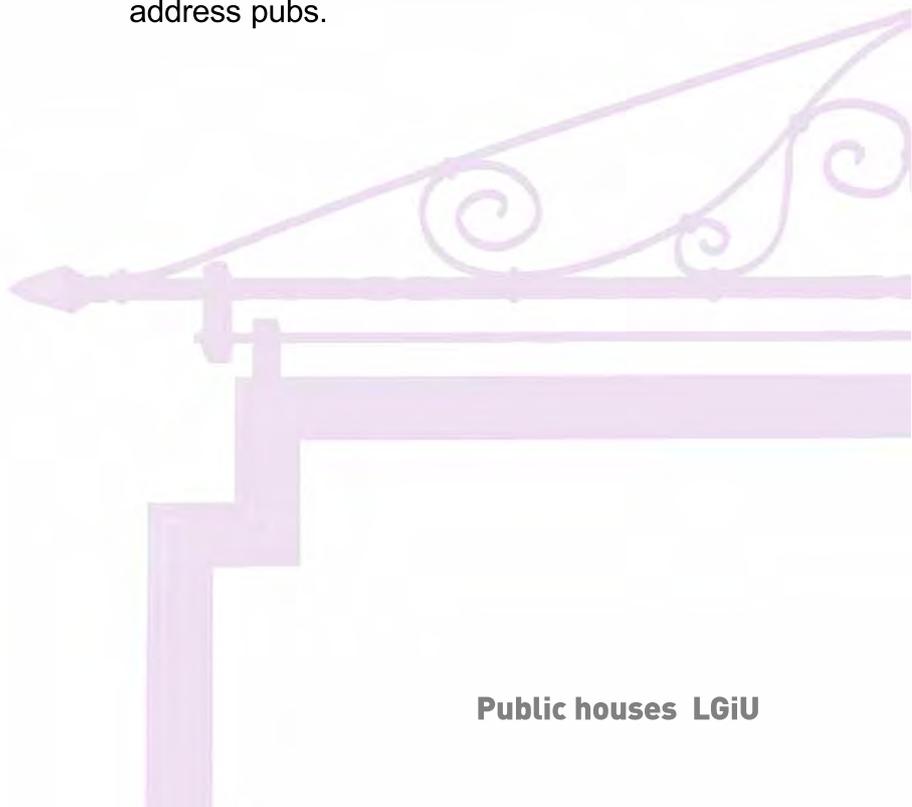
There was a mixed perception of the usefulness of SCA, however and many did not generally see the act as a particularly powerful tool.

## **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.

The councils that have found things particularly challenging are those in which there is no support, where planning is being led disproportionately by other targets, or left to market forces. One interviewee, a planning officer, said that the political orientation of the council means that the planning documents do not specifically address pubs.





**“A strong Local Plan is one of the most powerful ways for local authorities to protect pubs. 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.”**

# Case studies

***The case studies included here give an indication of the range of methods being implemented by councils at present. These are reasonably isolated and do not necessarily demonstrate widespread practice. The range of understanding and use of the various tools available seems to indicate the need for greater dialogue to share best practice and help solve problems.***

***They show diversity, in terms of geographical spread, political orientation, and a rural-urban divide. One of the issues that arose in the interviews and other research was that ACVs in particular are seen as a rural only legislation and so it is good to see that there is proactive work taking place across the board.***

## Uttlesford: list your assets, start the conversation

Uttlesford District Council was an early adopter of the Community Rights legislation. It is a rural area in which over 170 assets have been listed so far.

They are seen as a key mechanism for the council to engage with the community. Even though the asset in question may not be under threat at the time, there is value in supporting members of the community to come together and make a statement about the things in their community that mean something to them.

By listing so many assets in such a short space of time the council has demonstrated that the process is reasonably straightforward. Though it is reliant on the community to put in the bid, the local authority has the important role of approving it and of working with groups in the community who wish to find out more.

Parish councils are the vital point of communication with citizens. It is down to them to spread the message in both directions and so the upper tier authority has made sure that all parties are fully informed of their rights and responsibilities, as well as what they can expect from the process.

Officers may not have the resources to offer all the support that groups need, particularly if they want to put together a bid. But through ACVs the council has helped to galvanise the community behind specific campaigns, which is particularly important in more rural, disparate areas. It is seen as a key part of the place-shaping agenda that may reap potentially big rewards in the future.

## Cambridge: map your assets, build the evidence – Cambridge Public House Study

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 was 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 under-supply of pubs.

There was no precedent for such an exercise and to a great extent it was learning as it went along. For example, it 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.

## Waltham Forest: champion your assets – Waltham Forest Pub Awards

Championing the assets that make an area unique is important for cultivating a sense of pride and ownership among the local community. Pubs are a key part of the social fabric in the East End of London, and central to the area's cultural heritage.

In the London Borough of Waltham Forest, where pubs are closing at an alarming rate (and some wards now have none at all) the council is determined to mobilise the community to build a base of support for the assets that need protecting. The council's development management policy stipulates that pubs are valued community assets, which the council will seek to protect where possible, but public support will make this a far more likely prospect.

A big part of the council's work on pubs, therefore, involves getting local people out into the community and taking an interest in what is around them. It has made efforts to champion good standards as well as diversity and the links between pubs and the wider economic and social environment.

One of the more innovative methods developed in the borough is the Walthamstow Pub Awards, which first opened for nominations in October 2013. The award scheme ties in with the government's Best Bar None Accreditation, a scheme that promotes quality pubs and responsible management.

Residents are encouraged to nominate their local pub for awards in a selection of categories, which include Pub of the Year, Best New Pub, and Best Real Ale. The intention of the awards is to bring pubs in to the heart of the community by cultivating awareness, and championing the diversity within the sector. It also serves to encourage residents to think about the assets that exist in the local area, about what is important to them and why.

The ACV agenda relies heavily on this grass-roots support for local assets. By helping to encourage the conversation among the community, and by finding an innovative way of championing the assets, Waltham Forest have started to build that support which helps the wider policy programme to fall in to place.

## Bishampton and Throckmorton Parish Council: work with the community 1 – parish council buys the pub

Parish councils have a key role in the community rights agenda. They often have the closest contact with members of the community and it is through them that local authorities deliver the message about ACV, as well as listen to the concerns and aspirations of citizens.

It does not have to end there however. Some parish councils have gone one step further and have actually bought out the local pub to run it in the interests of the community. Bishampton and Throckmorton Parish Council, in Worcestershire, did just that.

The Dolphin, in Bishampton, has been through several owners in recent years and a string of closures. Given that this was an important place for the villagers, there were many who were keen to see this cycle come to an end, ensuring that the pub would remain open.

The community applied to have the pub listed as an ACV and approached the Parish Council for advice on putting together a bid to buy it. Since the council had recently bought the village shop, it was decided that it could also buy the pub. Following a public meeting with near unanimous support an application was put together for a loan from the Public Works Loan Board.

The application process was simple. The main requirement that had to be met involved a robust business plan, demonstrating the ability to pay back the loan, with or without a tenant, and without increasing local charges. Regular meetings and contact with members of the community was essential. The pub was going to be bought and run in their interests and so it was necessary that they had real input into the plan at every stage.

A working group was formed among the community to ensure that the project moved forward. Advice from surveyors and solicitors was sought, though it was felt that this was an unnecessary cost because the expertise already existed within the council.

Having secured a loan of £300,000 the Parish bought the pub as a going concern, thereby avoiding hefty VAT charges, and there is a 15-year lease with the present tenant. Given limited support from upper tier authorities it was important for the parish to be brave and decisive.

The key message, which the council delivers to the community, is that this is their pub and so they must continue to support it. Working together and pulling in various people with different ideas and levels of support was difficult, but essential. The pub reopened in summer 2013 and is bringing new life to the village.

## Babergh District Council – confident and proactive using Article 4

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 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 drew 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.<sup>10</sup>

## The George and Dragon: work with the community 2 – community share issue, incorporating services into the pub

Hudswell, in Yorkshire, is a village with a population of around 240 and a popular pub, which is owned by the community through an industrial and provident society. The George and Dragon is an interesting case because it provides a number of local authority services, including a library.

In 2008 the landlords declared bankruptcy and the pub closed and Hudswell Community Pub Ltd was formed with a view to acquiring the asset for community use. Dales National Park, the planning authority, had said that the pub could not be de-licensed unless it had been on the market for two years, which gave them the opportunity to put together a case for community ownership. The business viability of community and cooperative small businesses, particularly in rural areas, is strong, and there is potential for a wider variety of viability tests to be adopted and supported by local authorities.

Proprietors often set inflated asking prices for pubs, based on their value as a residential development. HCP put together a business model and made an offer to the owner based on the value of the George and Dragon as a going concern, substantially below the asking price. Tenants appointed by the board run the pub business independently.

Keen to avoid landing the community with large debts HCP decided to arrange a community share issue. Village meetings indicated overwhelming support among the community, with most people willing to buy over £500 of shares.

There was a clear vision that the pub would have a diverse offer that would cater to all in the community and, perhaps most importantly, ensure that business would remain viable. To that end, the council helped by suggesting that the owners might incorporate local authority library services into the pubs offer, alongside the wifi, computer hire, music, food, children's services, meeting space and other services provided on the premises. They currently offer 10 allotments for rent, which have proved very popular to the local community and beyond.

<sup>10</sup> <http://bdcddocuments.onesuffolk.net/assets/Uploads/Committees/Committee-Reports/Reports-2012-13/M170.pdf>

## Lewisham: align your tools – using core strategy, NPPF, London plan, and Article 4

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 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 Livable” 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: “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.

## Kensington & Chelsea: know your goal – ensuring your plan and strategy inspire confidence in what the council can do

Royal Borough of Kensington and Chelsea’s local plan and core strategy demonstrate clarity of thought over what it is that the council is aiming to protect. This is important as it helps to build confidence and encourages everyone involved to pull in the same direction.

Contrary to other councils, Kensington and Chelsea deliberately drew up broad regulations, which were not too specific. The planning documents do not insist, for example, on an overly prescriptive definition of what constitutes a “community pub”. They argue that this is an arbitrary decision on the part of the local authority and so did not want to go down this route. Instead, it was felt to be far better to ensure that all public houses would be covered by the policy, regardless of what the establishment “should” or “should not” do.

The intention is to give the council the flexibility that allows it to act in the best interests of the community. Applying strict definitions would allow developers or landlords to alter their offer just enough to avoid the regulations. In fact, its policy covers all A2/3/4 uses. This council is unique in the respect that it took this line, which also covers a very wide range of establishments such as letting agents. Planners do not insist on viability surveys or long marketing exercises, for the same reason that it leads to an overly prescriptive definition.

The approach led to a positive response from the Planning Inspectorate, who has sided with their interpretation of the NPPF and National Planning Practice Guidance. The huge rise in property prices in the borough was persuasive that buildings such as pubs needed protection.

Clarity and confidence about what the council sought to protect, why it was important, and the powers that enabled them to do it, meant that the council could present a robust case.

Officers considered the possibility of using Article 4 directions, but it was deemed to be too risky and there was insufficient understanding of how such it would work.

This is a holistic approach that plays in to a town centre policy, which they had in place already, and aligns with the conservations areas in the borough that allow the council to use heritage and character in defence of pubs. Interestingly, planners in the area also make the argument that the use of a building contributes heavily to its character.

## North Devon: consider the viability – going concerns and marketability of assets, in a rural area

Community pubs are particularly important in areas such as rural North Devon. Viability tests have been crucial to North Devon Council's approach to community pubs because they allow them to impose a certain amount of control over the redevelopment of particular assets, but also to decide for themselves where best to deploy their resources. The biggest threat is from viable pubs being lost to more profitable alternative uses such as housing"

Planners made good use of Paragraph 28 of the NPPF, which provides explicit support for pubs that are important for tourism, or necessary as village facilities, when drawing up the Local Plan. This has given added impetus to the local planning authority to be proactive and take a stand in cases where an area is at risk of losing access to these facilities. The strategy makes clear that

There will be a presumption against any development that involves the loss of community services and facilities, education, health, social and other publicly provided community services, except where it is part of the service provider's plans to provide the equivalent or improved local services in an equally or more accessible location.

It also makes the pledge that "development within rural settlements will contribute to making communities more sustainable," and ensures that it will be carried out through "partnership working with parish councils, affordable housing providers and community groups."

Planners were keen to help address the issue of viability for struggling businesses and are willing to refer cases to business development teams if advice and support can be offered that might help to preserve a pub where it is needed.

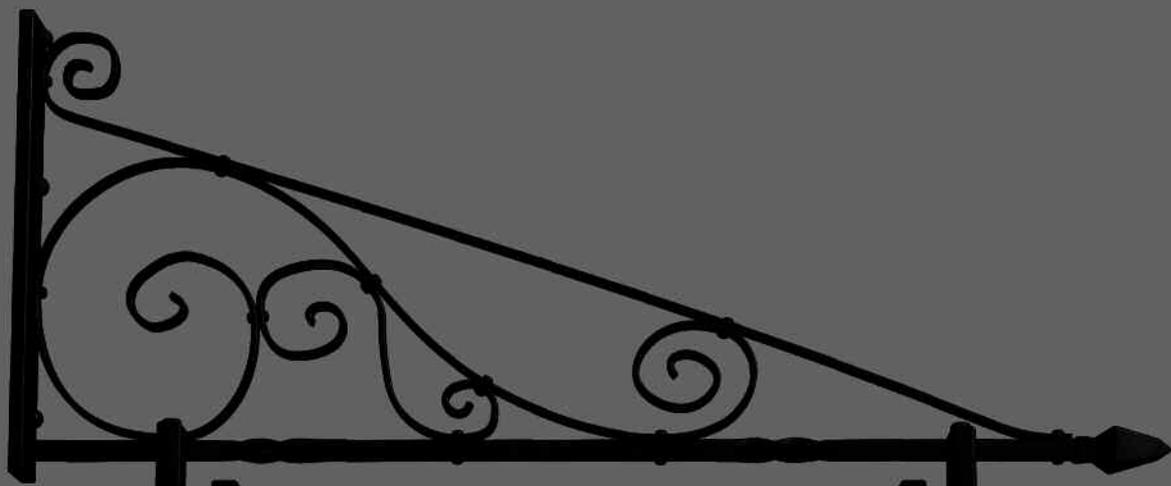
## London Borough of Hackney: build a vision, shape a place – town centre plan and local listing

Hackney has a number of town centre area action plans as well as conservation areas, which the council has used to prevent redevelopment and demolition of The Wenlock Arms.

Aware that they were unable to block redevelopment on the grounds of wanting to retain a particular business, the council developed a robust defence of the heritage that The Wenlock Arms brought to the area. It was in the vicinity of a conservation area in Shoreditch, so when the boundaries came up for review, they were adjusted to include the pub. Conserving the character and appearance of the area was particularly decisive in blocking the development.

A great deal of the local authority's success in this case was due to its confidence to act and its strong will to use the planning policies for this purpose. Without having a clear vision to shape the local civic economy and the built environment in a way that was distinctive and catered to the citizens of Hackney, this may not have been possible.

The council encourages this vision at the micro level as well, by supporting the establishment of town centre area action plans and neighbourhood plans. This allows citizens to make important decisions at the granular level in a way which can really impact on their lives.



**“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.”**

# Protecting your pub: a guide for planners and councillors

*This section outlines the key lessons that arise from the interviews and the case studies. It sets them out as a short guide for councillors and officers to follow. This is by no means exhaustive and will not be applicable in all areas equally, though it provides a useful way of thinking through the problem as it relates to the specific area and will help to point towards possible solutions.*

The aspiration to protect pubs is widespread. Acting on that aspiration is less common, however. The research in this report raises some key themes, challenges, and questions that are relevant to different local authorities in different areas. No one solution applies in every area, but having a strong local plan was seen as a particularly powerful tool in both urban and rural areas across the country. In order to formulate a robust approach to protect community pubs that fits for them, planners and councillors in local authorities should consider some key points:

- **Know the purpose: What are you trying to protect? How do you define a community pub? What is the vision for the local area?**

A clear understanding of the desired outcome is essential for a coordinated approach to community pubs.

Circumstances are radically different across the country and the challenges faced by local authorities vary enormously. It is important, therefore, that councils have a clear idea about the specific needs and goals in their area. Royal Borough of Kensington and Chelsea and Hackney are particularly instructive in the way that they have formulated a clear idea of what they want to achieve with their planning policies, based on local context.

- **Talk to the community, start a conversation and help to build momentum.** It was a common

perception in the interviews that ACV was a really good mechanism for doing this. The Pub Awards in Waltham Forest is a particularly innovative way of starting the conversation and encouraging the community to get actively engaged in their local area.

- **Understand your assets: gather information, survey the market, build the evidence.** A solid

understanding of the situation in the local area is important in being proactive. Cambridge City Council's Public House Study provided a vital tool with which to galvanise a robust approach to the community pubs agenda. North Devon DC also understood the need to be able to demonstrate the level of access, though they did not see the need for a comprehensive market survey to establish where the assets were.

- **Consider the viability.** Protecting assets that have been identified as important to the community can be made easier if they can also be shown to be viable businesses. The CAMRA Viability Test has been a useful document for many local authorities seeking to do this. It is available online: <http://www.camra.org.uk/viabilitytest> North Devon District Council used the viability test and seeks to defend pubs when there is a viable business case for keeping them open. Alternative

business models should also be considered, though, in order to help bolster the case for community and cooperative management.

- **Align the priorities: using a package of tools to drive towards a coherent goal.** The most robust approaches tend to make use of the range of tools on offer, rather than relying exclusively on one. If this is to be effective, however, it is important to ensure that these are used for a common end, and that the various departments and officers involved are pulling in the same direction. Lewisham used a package of tools to justify an Article 4 direction, which depended on a close alignment of different aspects of planning policy. Babergh DC's case in support of the Highbury Barn stood up to appeal because of the range of evidence mounted in its defence.
- **Be proactive: The powers and the guidance are there to be used.** Councils that have been proactive tend to have an idea of what they want to protect, and the places they want to help shape. This means that they are more likely to be prepared to take action when a community asset is under threat. A good understanding of the positive potential of the relevant sections of the NPPF was seen as an important basis for action. Uttlesford District Council, meanwhile, were early adopters of the ACV agenda and so the preparation is in place to protect assets, should it be required, while Bishampton & Throckmorton showed confidence and decisiveness in order to buy the village pub and run it in the interest of the community.
- **Show leadership and don't let risk dominate decision making.** Risk aversion is a key issue when it comes to planning decisions. Planners, understandably, often lack the

confidence to take appropriate action in order to protect community pubs. Leadership is a big factor here. Many councils have taken action where there was no precedent, including Cambridge, with their Public House Study, and RBKC with their innovative use of planning policy. Article 4 directions, in particular, are seen as too risky by many, but there is plenty of precedent showing that it works and stands up to challenge.

- **Think creatively.** There is legislation already in place that gives local authorities a degree of power. What is often needed is the creativity and confidence to begin making full use of it. The Waltham Forest Pub Award scheme is a fantastic example of a local authority thinking creatively to build a sense of pride and shared ownership among the community, which is likely to galvanise future support for retaining community pubs. Councils could consider: using viability tests creatively, particularly in relation to different models of community ownership; using 6 month moratorium periods effectively; using heritage listing and conservation areas, as RBKC have done by declaring that "use contributes to character"; parish councils could consider buying the assets, if there is demand, by applying for a public works loan.
- **Support the community.** Though they may not be in a position to offer direct material support to individual community groups, local authorities can offer guidance and signposting. A broader understanding of the workings of Community Shares, for example, would help to build their capacity to work with groups pursuing different approaches. The willingness and flexibility to work with different groups and to adapt to different circumstances are hallmarks of success.



**“The debate around community pubs addresses important questions about the role of government at all levels and raises issues about how citizens and communities can actively participate in shaping the places they live.”**

# Recommendations for local government

A range of tools has 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 ACVs is available from CAMRA.<sup>11</sup>
- **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. Royal Borough of Kensington and Chelsea, for example, made the case that the way an asset is used contributes to its character. This was approved by the Planning Inspectorate as a reason to retain the use of a pub as a pub. The decision to support Babergh DC's Article 4 direction on the Highbury Barn was based on evidence of its contribution to the local heritage, as was a great deal of London Borough of Hackney's efforts to retain pubs within conservation areas.

To provide greater support for action the government should respond to the 33 out of 49 local authorities that felt existing planning regulations give insufficient protection to public houses.

In order to make the community rights agenda more robust there are a number of modifications that the government could make to existing regulations.

These should include closing the planning loophole that allows developers to change the use or demolish pubs without planning permission. 35 councils have so far passed a motion under the Sustainable Communities Act calling for just such a change.

The government should also consider making funding available for discretionary reduction of business rates for pubs listed as ACVs.

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<sup>11</sup> <http://www.camra.org.uk/listyourlocal>

# 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 Community Rights legislation contained in the Localism Act 2011 goes some way to supporting communities who want to protect and shape the places they live in. One of the chief benefits this brings is that it helps to start conversations between citizens, government, and civil society organisations about what we want to see in our communities, what we value and what we need to protect.

The debate surrounding community pubs 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.

Many local authorities are rising to the challenge of protecting community pubs. The creative and proactive approach demonstrated by councils such as Lewisham, Kensington & Chelsea, and Cambridge, among others, shows the positive impact that is possible.

This is an exciting opportunity to engage with communities in a meaningful way and we hope that this report will help to equip more councils with the tools, resources and confidence to do so.

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.

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