

Toolkit for Local Authorities' Plan Creation

Planning Advisory Group



January 2019

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CAMRA considers that all Local Planning Authorities (LPAs) should include a Pub Protection Policy in their local plans. In cases where plans have been adopted we encourage LPAs to create supplementary guidance documents that actively resist the loss of public houses. Currently 14 pubs close every week; too many of these closures happen because LPAs do not feel confident enough to refuse planning applications on policy terms.

This tool kit is designed to provide LPAs with evidence to demonstrate that pub protection policies are practicable and compliant with relevant guidance.

Several LPAs have led the way on these matters and their pub protection policies have been found sound by Planning Inspectors. This tool kit is also designed so that LPAs can easily reference examples of sound policy.

Contents

The National Planning Policy Framework (NPPF)	2
Model Planning Policy.....	3
Assets of Community Value.....	5
Supplementary Planning Documents.....	6
Contact	8

The National Planning Policy Framework (NPPF)

To create a sound policy the LPA must have regard to the NPPF. Paragraph 92 is the most pertinent section when considering the creation of a pub protection policy. It states:

“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; and*
- *Ensure an integrated approach to considering the location of housing, economic uses and community facilities and services”*

NPPF web link: <https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

Paragraph 92 demonstrates that pubs are valued facilities and that LPAs should guard against their unnecessary loss. This in effect encourages the protection of public houses and provides scope for LPAs to create more detailed local policies which will protect them, provided that the policy passes the tests of soundness.

Please note that London Authorities will also have to refer to London Plan 2011, Draft Alterations to the London Plan January 2014 and Further Alterations to the London Plan March 2015, which asks Authorities to develop policies to prevent the loss of facilities including pubs. The draft New London Plan (currently at the Examination in Public stage) now offers strengthened strategic guidance in Policy HC7 on pub protection provisions in local plans.

Regarding the relationship with local plans, paragraph 212 states:

The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this

replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.

Paragraph 213 continues:

However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

From this it can be inferred that, where a local plan is currently silent, then the NPPF will apply (and take precedence where existing Plans are in conflict).

Model Planning Policy

From evidence gathered we consider the following policy to be sound and robust and encourage LPAs to use this policy:

“Any proposal which would result in the loss of a community facility will not be permitted unless:

- *an alternative community facility which meets similar local needs to at least the same extent is already available; and*
- *it can be shown that the proposal does not constitute the loss of a service of particular value to the local community nor detrimentally affect the character and vitality of the area; and*
- *in the case of commercial community facilities, it has been demonstrated that it is no longer economically viable and cannot be made so.”*

“Community facility” in this context has the same meaning as in paragraph 92 of the National Planning Policy Framework.

Reasoned Justifications

Regarding alternative community facilities, the Council will require evidence not only that an alternative facility or facilities can be found within easy walking distance but that there is at least one such facility which offers services and an environment comparable to that of the facility subject to the proposal.

This policy applies equally to community facilities which are currently open or have been closed within the past five years.

Toolkit for Local Authorities' Plan Creation

Regarding local needs, the Council will require evidence that there has been public consultation to ascertain the value of the facility to the local community.

If the facility is registered as an Asset of Community Value then the Council will regard this as a material consideration in the determination of any planning application affecting the facility.

Development proposals involving a community facility should not have a detrimental effect on the design, character, significance and setting of buildings or areas of acknowledged heritage value.

On viability, the Council will require evidence demonstrating that:

- the existing or recent business is not financially viable, as evidenced by trading accounts for the last three years in which the business was operating as a full-time business;
- a range of measures were tried during this time to increase trade and diversify use;
- the potential for the property to extend the range of facilities offered at the site has been fully explored;
- for public houses, CAMRA's [Public House Viability Test](#), or a similar objective evaluation method, has been employed to assess the viability of the business and the outcomes show that the public house is no longer economically viable.

Also on viability, the Council will require evidence that all reasonable measures have been taken to market the facility to other potential operators. The facility must have been marketed for at least 24 months either as the current type of facility or as an alternative community facility, at a price agreed with the Council following an independent professional valuation (paid for by the developer). In turn there must have been no interest in purchasing either the freehold or leasehold as a community facility. The business must have been offered for sale locally, and in the region, in appropriate publications and through relevant specialised agents.

This policy is considered to be consistent with the demands of plan creation placed upon LPAs by the NPPF. It is also compliant with the four tests of soundness in the NPPF and should act as a guideline for good policy creation. The policy has purposely been kept short so that the objective is clear and it can be applied to community facilities located in urban and rural settings. Other LPAs have successfully had policies similar to this adopted.

Several LPAs have adopted pub protection planning policies. Examples of excellent work include:

The London Borough of Lewisham, which has done extensive work on this in its adopted Local Plan, please see page 61: <https://lewisham.gov.uk/myserVICES/planning/policy/ldf/development-policies/development-policy-documents>

Norwich City Council: https://www.norwich.gov.uk/info/20199/adopted_local_plan/1457/development_management_policies/22

Assets of Community Value

The Localism Act 2011 is now starting to inform emerging local plans. One of the ideas introduced was the concept of Assets of Community Value (ACVs). Since the inception of the Localism Act in 2011 over 2000 pubs have been listed as ACVs. We feel that Local Authorities should include ACVs in adopted policies as encouraged by legislation.

The Community Right to Bid: Non Statutory Advice Note for Local Authorities. Part 5, Chapter 3 of the Localism Act 2011 and the Assets of Community Regulation 2012. Section 9 states that an ACV can be a material planning consideration:

“However the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide that listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.”

This provides scope for Local Authorities to include ACVs in pub protection policies which can add a further level of pub protection. Listing a pub as an ACV demonstrates that the pub is a valued use within the community and including this in adopted policy can only strengthen a pub protection stance.

Local Authorities and Planning Inspectors are starting to use ACVs in the decision making process with confidence. An application to change the use of The Feathers pub in Marylebone was dismissed at appeal stage and ACV status was noted by the Inspector as being a material consideration. The appeal decision can be found here: <https://www.ftbchambers.co.uk/sites/default/files/The%20Feathers%20Appeal%20Decision.pdf>

This decision shows that Planning Inspectors consider ACV as a material planning consideration.

Supplementary Planning Documents

We believe that those responsible for planning policy should strive to enshrine pub protection in adopted policy. We appreciate however that this may not be practical in all circumstances due to the fact that LPAs are at different stages of the Local Plan process.

An additional approach is to create Supplementary Planning Documents (SPDs) that relate specifically to pub protection. Although this is not adopted policy it can inform the decision making process.

A good example of this approach is Cambridge City Council's 'Interim Planning Policy Guidance on the Protection of Public Houses in the City of Cambridge':

<https://cambridge.jdi-consult.net/localplan/readdoc.php?docid=165>

This document was designed to assist Development Management Officers in determining applications which relate to the potential loss of public houses.

Cambridge City Council has since adopted a new Local Plan with a policy on the protection of public houses included, see page 223: <https://www.cambridge.gov.uk/media/6890/local-plan-2018.pdf>

SPDs can be used to back up an existing policy and in some cases SPD documents exist where there is policy shortfall. For example it may be the case that a Local Plan has been submitted to the Inspectorate prior to the emergence of the National Planning Policy Framework. In this case it is understandable why the local authority may not have included a specific pub protection policy.

Waltham Forest has also developed an excellent SPD, available from: <https://www.walthamforest.gov.uk/Documents/PUB%20spd.pdf>

Evidence Base

A wide range of information is available on the subject of pub protection and planning policy. The links below show that the protection of pubs is an important subject and one which demands the attention of Local Authority policy makers.

[Protecting Community Pubs: A local government briefing paper \(September 2015\)](#)

This report was produced by the Local Government Information Unit (LGiU) following a series of roundtable ACV workshops held in conjunction with CAMRA.

Toolkit for Local Authorities' Plan Creation

[Public Houses: How councils and communities can save pubs \(July 2014\)](#)

This report was produced by the Local Government Information Unit (LGiU) and CAMRA. The report sets out some of the ways councils can help to protect pubs through various planning policy approaches; it provides detailed statistics and examples of how other local authorities have approached plan protection. This is a very useful point of reference.

[The Social Value of Community Pubs \(2012\)](#)

This is an audit of community pubs showing that their numbers have been falling gradually for decades. This includes a lot of statistics regarding pubs.

[Bromley Public House Evidence Base 2014](#)

This report was produced by the London Borough of Bromley regarding pub protection.

[London Borough of Lewisham](#)

Please see page 61 for their Pub protection Policy, DM20.

[Keeping Local: How to Save London's Pubs as Community Resources \(G.L.A. Conservatives 2013\)](#)

This report seeks to explore the reasons for the rate of pub closures in the Capital, why this is trend should be resisted and what can be done to stem the flow of closures.

[Campaign for Real Ale Public House Viability Test \(Updated November 2015\)](#)

CAMRA have created a guide to assessing the viability of a public house. This enables Local Authorities to examine a developers own viability methods and claims.

[Campaign for Real Ale National Inventory](#)

This link can be used to find pubs with important historic interiors throughout the country.

[Campaign for Real Ale Regional Inventory](#)

[National Policy](#)

[National Planning Policy Framework](#)

[The Localism Act 2011](#)

[Community Right to Bid: Non-statutory advice note for local authorities](#)

Toolkit for Local Authorities' Plan Creation

This document provides detailed advice to Local Authorities on the Community Right to Bid process and Assets of Community Value.

[London Plan July 2011 and Further Alterations to the London Plan March 2015](#)

[Draft New London Plan](#)

[Mayor of London: an A to Z of Planning and Culture, 2016](#)

A guide for councils, developers, planners, community groups and people involved in cultural bodies highlighting planning tools available to safeguard London's culture in the planning system.

[Friends on Tap: The Role of Pubs at the Heart of the Community \(A Report for CAMRA by Professor Robin Dunbar, 2016\)](#)

Contact

We believe that the information above will provide local authority planning policy departments with the background information required to create, with confidence, a sound, practical, competent and fair pub protection policy.

If we can be of any further assistance in the creation of your pub protection policy, please contact CAMRA:

- Email: campaigns@camra.org.uk
- Phone: 01727 337 851
- Website: www.camra.org.uk

Please note that the planning legislation quoted in this document is relevant as of January 2019 and will be updated to reflect future changes to the planning system when required.

