

# SAVING YOUR LOCAL PUB

## 1. Introduction

1.1 This guidance is aimed at anyone who is involved in a campaign to save a pub threatened with closure or damaging alteration.

1.2 CAMRA puts much effort into promoting pubs and pub-going and separate guidance for our Branches about this ("Promoting the Pub") can be found on CAMRA's website. However, no matter how hard we campaign to convince people of the joys of pub-going, our pubs continue to close at an alarming rate.

1.3 If your pub is in danger of closure or damaging alteration, and you want to do something about it, we hope you will find the guidance which follows helpful and informative. It concentrates on the practicalities of campaigning to save a pub, with particular focus on how to use the planning system to combat unwanted change.

1.4 This document is available to download from CAMRA's website:

<http://www.camra.org.uk/saving-your-local-pub>

## 2. Background

2.1 In recent years pub closures have escalated dramatically – over twenty every week during 2013. A combination of factors, but especially falling customer numbers and high property prices, is tempting many pub owners to shut pubs down and convert the buildings to other uses. The good news, though, is that many successful campaigns have been fought to stave off closures. Numerous now-thriving pubs up and down the country, which would otherwise be private houses or heaps of rubble, stand testament to the efforts of local campaigners.

2.2 Although the emphasis in what follows is on fighting attempted closures, the same basic approaches and tactics apply if the threats are of a lesser but still unwanted kind e.g. proposals for major alterations which would spoil the pub's character.

## 3. Community Support

3.1 Essential to the success of any campaign is the ability to demonstrate widespread local community support. Should most people round about be unconcerned about the pub in question then it's unlikely that decision-makers will take much notice of representations by an individual or a particular group.

3.2 Top priority, therefore, is identifying who will join you in fighting the good fight. Often a group will form pretty quickly anyway if the pub is well used and much loved. Should the regulars be unwilling to make a stand then a campaign will be up against it from the off.

3.3 A potentially effective means of testing local opinion is a community questionnaire. You can ask questions like "How often would you visit a well-run local pub?", "How often would you buy meals if there was good food?", "What activities would you be interested in?", "Would you use a shop if it was part of the pub?".

3.4 Embryonic campaign groups are encouraged to contact the local CAMRA Branch early on (contact details can be found at [www.camra.org.uk](http://www.camra.org.uk)). Our Branches are expected to resist any temptation to 'take over' – their role is to assist and enable.

3.5 A scenario sometimes develops where a licensee succeeds in alienating the local community (possibly deliberately) to such an extent that hardly any locals remain! It's often the case that in the right hands such a pub would be a valued community asset and in these circumstances the net needs to be spread wider in trying to enlist support – you're aiming to reach the folk who **would** use the pub if it wasn't for the particular regime now in charge.

#### **4. Getting Started**

4.1 Once closure stories or rumours begin, intelligence gathering is the first step. Who owns the pub? Is it the licensee him/herself? Or a property developer? Or a pub company or brewer? If the last, then who within the company made the decision?

4.2 Whoever the owner, you need to find out why closure is being pursued. Is it because the pub (supposedly) isn't making money? Does the owner have another pub nearby and wants to reduce competition? Has a developer made a tempting offer? If the licensee is owner, perhaps they're retiring and want to maximise their assets. Your tactics will to a large extent depend on the answers to this question.

4.3 Pubs can also come under threat from public schemes such as comprehensive development plans or local authority highway proposals. In such cases you'll need to contact the local Council to find out more and how you can register your protest e.g. will there be a public inquiry?

#### **5. Assets of Community Value**

5.1 Whatever form your campaign takes, you'll need to show that the pub is valued by the local community. Under the Localism Act 2011, you can apply to the Council to have the pub declared an Asset of Community Value (ACV). Should the pub later be put up for sale, a community group is entitled to submit a bid and a six-month moratorium kicks in giving the group time to raise the necessary funds. However, it's well worth getting a pub listed as an ACV regardless of any future intention to try and buy it, because this provides concrete evidence to planners and others that local people don't want to lose it. Full details of how to apply for an ACV listing are at [www.camra.org.uk/list-your-local-assets-of-community-value](http://www.camra.org.uk/list-your-local-assets-of-community-value)

#### **6. What Do They Want To Do?**

6.1 Finding out the intentions of the owners isn't always straightforward. Should planning permission be required for what they want to do then they'll submit an application to the Council as local planning authority. The applicants are obliged to post a site notice on or near the building **or** notify immediate neighbours **or** both – so you should get to know fairly quickly. Also, the Council will publish details of new applications on its website, including plans and other associated documents.

6.2 If, however, planning permission isn't needed, the owner might be secretive, with not even the licensee, if a manager or a tenant, being told what's going on. Many of the large pub companies, for instance, do deals with supermarket chains and by the time anything becomes public, the pub is already sold. In any event, it's much more difficult (but certainly not impossible) to campaign against a closure if the changes can go ahead without the need for planning permission.

6.3 Please note that what follows reflects planning law in England. The legislation in Scotland and Wales is broadly similar but there are differences in some areas.

## 7. What Doesn't Need Planning Permission

7.1 Our current planning laws are woefully inadequate when it comes to protecting pubs from unwanted development. Planning permission is not required to change a pub into:

- a restaurant or cafe
- an ordinary shop or supermarket
- a betting shop or pay day loan store
- offices for financial and professional services e.g. estate agents and building societies

These changes are known as “permitted development” and usually the only way to combat them through the planning process is use of Article 4 Directions – see 13.3

7.2 In most cases, demolishing a pub does not need planning permission. The main exceptions are if the building is listed, in which case listed building consent is required, or if it is in a conservation area. In both instances, though, the Council can only consider the “amenity” aspects of demolition and are not under a duty to consider any loss of a community asset. However, unless the demolition is minor, prior approval of the demolition **method** must be obtained from the Council. This enables them, if they wish, to regulate details of the demolition to ensure the method is safe and that the site will be restored. The person submitting the prior application must post a site notice at least 21 days before demolition begins. Whatever goes up in place of the pub **will** need permission but demolition extinguishes the original use of the land so the Council would be unable to insist that the new building was a pub. More on demolition at 15.6

7.3 Minor matter not needing permission include:

- internal alterations, unless the pub occupies a listed building (Building Control consent is usually needed though)
- small advertisements in many cases
- changes of pub name, which includes replacing existing signs.

7.4 In 2013 the Government relaxed planning rules to allow some temporary changes of use without the need for planning permission in order to encourage use of empty or redundant high street buildings. This affects pubs in that they can now be turned into offices (where not already covered by permitted development), research and development premises and low-impact industrial plants. The use is limited to two years and the site retains its original use in legal terms.

## 8. What Does Need Planning Permission

8.1 Changes of use, other than those specified above, do require planning permission. So far as pubs are concerned, the most common is conversion to one or more houses. Others include hot food takeaways, non-financial/professional offices (but see preceding paragraph) and industrial or warehousing uses.

8.2 Also needing permission are:

- extensions like new restaurant areas and conservatories
- demolition of all or part of a listed building or a building in a conservation area
- alterations (inside or out) to listed buildings

- most new signs and advertisements
- changes to the external appearance of the building such as new doors, windows, roof.

## 9. Strategy for Action

9.1 Planning the campaign carefully will save much time and effort later on. By now you should be clear who owns the pub and why they want to close it. You may know what they want to do with the building. You'll also have a good idea how much support you can rely on within the local community. Your next steps will depend to a large extent on whether or not planning permission is needed but, in all cases, publicity is key.

## 10. Publicity

10.1 It's usually easy to interest the local media in a Save Our Pub campaign. Get press releases out containing all the pertinent facts plus a few juicy quotes then perhaps organise a photo call, ideally outside the pub itself – the more people you can get along to this, the better. The spokesperson will need to be prepared for interviews. Some snappy sound-bites never go amiss “this pub is the heart of our community”, “so-and-so has been coming here for 53 years – where will he go now?”, “five societies and six sports clubs use the pub as their HQ” etc.

10.2 Being positive works best. Directly slagging off the current licensees is a no-no but if you believe they're at the root of the problems then you can convey this in other ways e.g. “I can remember when this place was really buzzing – there's no reason why it shouldn't be so again”. Pub companies, brewers and developers are fair game for criticism, though, especially if you feel they've deliberately run down the business or starved it of investment.

10.3 Postcards are an effective way to publicise a campaign and large quantities can be surprisingly cheap to produce. There should be a colourful, eye-catching image on the front along with a simple message like “Save the Rose & Crown”. On the back, you can set out in some detail the nature of the threat and what readers can do to help. If a planning application has gone in, encourage objections and offer pointers as to what the reasons for objection might be. Give contact details for local Councillors and the M.P. And ask people to write to them. Finally, of course, indicate the sources of further information – website, Facebook page, phone numbers and so on. Then distribute the cards in local pubs, shops, libraries – anywhere which will take them. You might also consider popping them through local letterboxes – ditto leaflets exhorting residents to back the campaign.

10.4 A “demo” is always worth considering, especially if you need a new publicity angle. It could be timed to coincide with the planning meeting or you could use it to up the ante a little time in advance. However, there are few things more pathetic than an ill-attended demo so be sure you'll get a decent turn-out or don't bother. It also helps to be visual for the benefit of the media – not just placards but people dressed up and other gimmicks e.g. campaigners in one village opened “Britain's smallest pub” in the (disused) phone box outside their closed local. Any local celebrities or worthies you can persuade to turn up will be worth their weight in gold.

10.5 Getting the initial burst of publicity should be easy but sustaining media interest is more of a challenge. Try to develop relationships with particular journalists and feed them regularly with updates and developments.

## **11. Statutory Listing**

11.1 As briefly mentioned at 8.2, buildings which are statutorily listed as being of special architectural or historic interest enjoy enhanced protection under planning law. Any significant internal alterations will need planning permission, as will demolition of all or part of the building. Campaigners therefore sometimes ask whether it's worth trying to get their threatened pub listed.

11.2 Listed status is granted by the relevant Secretary of State on the recommendations of English Heritage once they've assessed the merits of the building. More detail on the listing process and how to apply (which anyone can do) can be found at [www.heritagepubs/home/pubsaslistedbuildings.asp](http://www.heritagepubs/home/pubsaslistedbuildings.asp). A word of warning though. The assessment process is normally quite lengthy and it's unusual for English Heritage to complete their work in under six months, so any verdict might well come too late to help your campaign. Also, the criteria for listing are strict and the building really does have to be quite special to stand a chance of qualifying. The criteria can be viewed on the English Heritage website.

11.3 Emergency listing might be a possibility. Councils can serve temporary building preservation notices if a building is in danger of demolition or alteration in ways which would damage its historic character – provided that they consider the building to be potentially listable. The notice remains in force for 6 months until the Secretary of State decides whether or not to formally list the building.

## **12. The Owners**

12.1 Ideally, you'll want dialogue with whoever owns the pub. You'll want to ask what, if any, efforts they've made to market the pub as a going concern – for example, with what type of agent, for how long and at what price. You'll want an idea of timescales e.g. will they wait until the planning position is clarified before closure or not? If they say they've tried to sell and have had no offers, you might tentatively want to enquire whether a sale to a local consortium (see 14.11) would be entertained.

12.2 It's always worth trying to negotiate a 'stay of execution' on the promise that your group will work with the pub and the local community to explore ways of drumming up trade and increasing the pub's viability.

12.3 How your campaign goes forward depends very much on whether or not planning permission is needed for the proposed developments.

## **13. Campaigning When Planning Permission Isn't Needed**

### **13.1 Overview**

13.1.1 Mounting a campaign where the key threats to a pub lie beyond the control of the planning system is certainly challenging but still well worth doing – there have been successes, even against all apparent odds.

13.1.2 The most common recent scenario has been pub-to-supermarket. Many pubs occupy buildings, plots and locations which lend themselves to conversion to small supermarkets like Tesco Express and Sainsbury's Local. CAMRA's surveys show that in the three years from January 2011, over 300 pubs were lost in this way. The problem, of

course, is that change of use from pub to supermarket doesn't need planning permission.

## **13.2 Tactics**

13.2.1 However, there are some levers which campaigners can employ. Firstly, in most cases, planning permission will be necessary for various “ancillary” matters – car parking, access arrangements, refrigeration equipment, rear extensions for storage and so on – and objections can be submitted to these applications. As most of these matters are relatively minor, finding reasonable grounds for objection can be tricky but the planning authorities may be sympathetic, given their inability, like it or not, to control the change of use itself. Objections on traffic grounds have proven to be the most successful – a supermarket means an inevitable increase in traffic so if the road is busy or egress from the car park not easy then objections on highway grounds might be sustained. The developers can appeal or submit revised plans but they could move on to easier targets instead.

13.2.2 The other tactic which has had success revolves around naming and shaming. The supermarket giants are very image conscious and prefer not to come across as the profit-obsessed megaliths they actually are. Campaigners can position themselves as the David to their Goliath. All the publicity methods set out in Section 10 can come into play, with the main angles centring on the development as an unwanted imposition on the neighbourhood, the effects on local business and, of course, the loss of a community focal point. The developers will argue that people like and use supermarkets but, invariably, you can show that there's already one not far away so people aren't to be deprived. Worth a look is the Tesco poly website – [www.tescopoly.org](http://www.tescopoly.org) – whose objectives are self-explanatory. The site includes a couple of excellent planning guides.

## **13.3 Article 4 Directions**

13.3.1 The most effective barrier which can be erected against this kind of development is an Article 4 Direction. Councils can make these to remove permitted development rights (see 7.1) so making it necessary to obtain planning permission for any change of use or demolition. Unfortunately, Councils are notoriously reluctant to go down this route because they may be liable to pay compensation to those whose permitted development rights have been withdrawn should they go on to refuse planning permission. We've been advised by a senior Planning Inspector that if the threatened building is covered by a local planning policy (e.g. a pub is classified as an important community facility) then serving Article 4 Directions shouldn't give rise to compensation claims – but it has proved impossible to obtain a definitive ruling from Government. It's certainly worth asking Councils to consider this strategy in appropriate circumstances and a few have bitten the bullet, without so far running into difficulty. Section 200 of the National Planning Policy Framework says that Article 4 Directions may be used to protect local amenities or the well-being of the area.

## **14. Campaigning When Planning Permission is Needed**

### **14.1 Contacting the Planners**

14.1.1 The Council's planners are key players here as they have to decide whether or not to approve (or recommend approval of) any application for change of use, demolition or alteration. In most cases, planners will base their decisions on the policies contained in the Local Development Plan and in the National Planning Policy Framework (NPPF) – see

15.1 and 15.2 for more information. Many Local Plans have policies aimed at protecting essential community facilities, including pubs. Plans will often state, for instance, that any applications to change the use of the only pub in a settlement will normally be resisted. The NPPF also has some strong pro-pub policies which all Councils are expected to abide by.

14.1.2 So, an early action will be to contact the local planning department to find out:

- if an application has been submitted
- if yes, what is the closing date for objections (if no, then ask to be consulted as and when any application comes in)
- whether the decision will be made by the planning committee or delegated to officers
- what decision or recommendation are the planners minded to make (they may or may not be willing to tell you)
- what are the relevant Local Plan policies
- whether the pub is a statutory listed building, a locally-listed building or is in a conservation area.

14.1.3 Where the viability of the pub might be an issue, ask the planners if they're aware of CAMRA's Public House Viability Test (see Section 16) – and offer to send them the website link ([www.camra.org.uk/public-house-viability-test](http://www.camra.org.uk/public-house-viability-test)) if they aren't, so that they can use it in their assessment of the pub's viability.

14.1.4 As with the media, you want to establish a relationship with the planners and, if necessary, try to convince them of the merits of your case. Their room for manoeuvre may be limited by the Local Plan but it can be worth persevering. As an example, one authority which had a 'protect the last pub' policy was minded to approve a change of use because there was another pub in the village concerned. However, the locals pointed out that this other establishment operated essentially as a restaurant and the threatened pub was the only true community facility. The planners were persuaded, permission was refused and the pub is trading successfully under new ownership.

14.1.5 It's worth stressing that planners are often genuinely supportive of pub retention and preservation so you may well be pushing at an open door if you're trying to save a pub. They do, though, have to balance lots of issues as well as complying with local and national planning policies.

## **14.2 Lobbying Councillors**

14.2.1 Try to get your local democratic representatives on board. You would hope and expect the local District/Borough Councillors to support your efforts. These days, some 90% of planning application decisions are delegated to officers but that doesn't prevent Councillors becoming involved if they wish. In many Councils, if a ward Councillor raises objections to an application then it will be taken to Committee for decision. An advantage there is that most Councils permit objectors to address the meeting before the decision is made. As a minimum, the meeting will be open to the public. Contact your Member of Parliament as well and ask them to endorse your campaign.

## **14.3 The Objection Process**

14.3.1 OK, so you've found out that a planning application has been lodged which may drastically affect a favourite local. What to do?

14.3.2 If you've already contacted the planning department, you may already have some of the answers, but let's assume you only know that an application has gone in. Firstly, have a close look at the application. You'll be able to find this on the Council's website. On the home page there will be a 'Services' section and, often, an A-Z as well – you're looking for Planning. Here you should find a link to something like 'View Planning Applications'. You then just insert the property name or postcode. Basic details of any recent application will pop up along with links to associated documents like the application itself, detailed plans and the design and access statement. The closing date for objections will be given – but beware, as the time period can be short, often three weeks or so.

14.3.3 Most Councils have the facility on their website to enable objections to be made electronically – again, there should be a link from the planning application. This is often titled “Make a Comment”. Some Councils require you to “log on” first and you'll therefore need to register, but this is a simple process. You can also write a letter to the Chief Planning Officer if you prefer, in which case always include the address of the property and the Council's application reference number. Assuming your comments are submitted in time, they should be fully considered when the decision is made.

## **14.4 Writing Your Objection**

14.4.1 What follows assumes you're writing a detailed objection on behalf of an action group or suchlike – though an individual objection can cover these points as well. However, in addition to any “formal” action group objection, you should also encourage as many individuals as possible to submit personal objections – the more people who object, the more likely are the powers-that-be to take notice. It's best to avoid “identikit” objections, using a standard letter - they lack credibility. Petitions are also of dubious value, as signing one doesn't indicate any genuine degree of commitment to the cause. You can, though, assist fellow objectors by setting out the key points and asking them to make them in their own words. Conveying the impact which loss of the pub would have on each individual objector, as well as the community as a whole, is important.

**14.4.2 The Policy Angle.** When framing your reasons for objection, it's extremely useful to quote any Local Plan policies (see 15.2) you consider relevant to the case. If you can demonstrate that the proposal is clearly out of step with established planning policy, the Council ought to make its decision in line with that policy or give a very good reason not to. You can also quote relevant sections of the National Planning Policy Framework (see 15.1)

**14.4.3 The Viability Argument.** Applicants will often state that the business is no longer commercially viable and has no hope of ever again becoming a going concern. The Public House Viability Test (PHVT - see section 16) will help you marshal your evidence on this one. This is especially important where, as often happens, the applicant has commissioned “experts” to produce a study which “proves” the pub's non-viability. The piper calls the tune here and these studies are rarely worth the paper – but you do need to disprove their conclusions and the PHVT will generally enable you (or the Council) to do this.

14.4.4 Lack of current trade may well be very real, but what are the reasons? Is it that the pub is inherently incapable of attracting custom? Or are there other reasons e.g. limited opening hours, poor quality drinks/food, unwelcoming atmosphere. As mentioned at 14.8, it's not unknown for an owner to run a pub down deliberately so that they can claim it's no

longer a commercial proposition.

14.4.5 At Appendix G is a “tick list” version of the PHVT which you might find helpful in assembling the facts relevant to viability.

**14.4.6 Marketing.** Have the current owners made genuine efforts to sell the pub as a going concern? Has it been placed with an appropriate specialist agent and offered for sale at a realistic price for a reasonable length of time? If not, you should suggest that this must happen before planning permission is considered.

**14.4.7 The Community Angle.** This often has significant power with planners, and rightly so. Your argument is even stronger where other facilities like shops, post office and garage have already gone. Pubs are, by their very nature, a community asset. Use phrases like “take away this pub and the local community will lose its heart”, “the community would be a much poorer place if this pub was lost”, “it’s a meeting place for all sections of the community” - plus any other variations on this theme you can come up with. This community angle doesn’t just apply in rural areas either. Urban pubs can be equally important community facilities, both for particular areas of a town or city and for “communities within a community”.

**14.4.8 “Alternative Facilities”.** In urban areas and larger villages, applicants will invariably point out that there are other pubs or ‘equivalents’ like clubs and hotels which local people could use. There are often, though, good arguments as to why these alternative facilities are no replacement for the pub in question. They might, for instance, be very food-oriented or aimed only at particular groups of people. Distance can also be a factor especially if a drive rather than a walk is needed.

**14.4.9 History/Heritage.** Some pub buildings are “listed” as being of architectural or historic interest. Also CAMRA maintains “inventories” of pubs recognised as having interiors of national or regional importance. Should your pub be in one or both of these categories, make the most of portraying any loss as the squandering of a rare heritage asset. You can see if a pub is on an inventory by visiting the Pub Heritage website – [www.heritagepubs.org.uk](http://www.heritagepubs.org.uk)

14.4.10 At Appendix B is a model objection letter which you might find helpful. Not all of it will be relevant in every situation so it will be a matter of picking and choosing what is most appropriate for the application in question.

## 14.5 Helping Your Cause

14.5.1 Encouraging other people or organisations to object can be very useful. The pub's regulars should be encouraged to write as individuals. If the pub is of some historic or architectural value, the local Civic, Village or Historical Society may be willing to lodge an objection.

## 14.6 In Summary

14.6.1 At Appendix A, you'll find a flowchart which offers a step-by-step summary of the process for responding to planning applications. Appendix C is a Log Sheet on which the key information relating to the campaign can be recorded so you can keep track of where you are in dealing with an application and in making sure all necessary actions are being taken. Appendix D is a case study of a well-run campaign to fight an unwanted application.

## 14.7 Follow Up

14.7.1 If you've made a good case, you can hope that permission will not be given. Contact the planning officer to find out if the application is being dealt with by a planning committee. If yes, you can attend the meeting. Increasingly, Councils also allow objectors to speak at the meeting though you generally need to book yourself a slot in advance – all the necessary information will be on the Council's website. The case officer's report to the committee ought to include reference to or summarise the contents of any objections received. Should yours not be properly covered, you have grounds for complaint (see paragraph 14.8.1)

14.7.2 However, as mentioned at 14.2.1, decisions are more often delegated to a senior planner – but the case officer's report must still consider all the relevant issues and objections and come to a reasoned conclusion. For instance, there must be a convincing justification for allowing something which specifically goes against a local or national planning policy. Also, material representations should be properly mentioned in the report.

## 14.8 Planning Permission Granted

14.8.1 If permission is given, there's very little you can do as a rule. Should you feel that the Council did something wrong in the way it went about making its decision e.g. they ignored a point of law or failed to follow their own procedures then you should submit a formal complaint. Where the Council doesn't respond to your satisfaction and you've exhausted their complaints procedure, you can escalate the complaint to the Local Government Ombudsman ([www.lgo.org.uk](http://www.lgo.org.uk)) who will decide whether or not the Council was guilty of maladministration. However, even if the Ombudsman finds in your favour, it would be rare for them to recommend the Council to reconsider its original decision, even if it was in a position to do so.

14.8.2 There is a process known as Judicial Review which could get a decision overturned when it can be proven that the Council has acted illegally. You do, though, need to be on extremely secure ground before pursuing this route as it's potentially ruinously expensive. Getting expert legal advice is an essential first step.

## 14.9 Planning Permission Refused

14.9.1 Hurrah – the Council has refused the application, so all is well? Not necessarily so, unfortunately. Several unwanted developments could now take place.

**14.9.2 Appeals.** The applicant is entitled to appeal against the decision within six months of the decision notice date. You then have another battle to fight. Appeals are dealt with by the Government's Planning Inspectorate and an Inspector will be appointed to deal with the case. Objectors to the refused planning application should automatically be notified of any appeal. The notification will usually set out the grounds of appeal and will say how the appeal will be dealt with. This could be through exchange of written representations, or a semi-formal hearing or a full-blown inquiry – the last are increasingly uncommon.

14.9.3 You'll need to act quickly to get any views submitted as there's a six week deadline from the Council receiving the appeal. Your original objection letter will, though, be read by the Inspector so if you've nothing to add, don't bother. Where viability is an issue, draw the Inspector's attention to the Public House Viability Test (see section 16) and suggest it be

used to assess any continuing claims of non-viability.

14.9.4 Where an inquiry is to be held, the Council and appellant must exchange, six weeks before the inquiry, 'pre-inquiry statements' which set out the basis of their cases. Should objectors have a comprehensive or complex case, they can be made a party to the appeal – in the jargon, they are then a 'Rule 6 Party'. They must produce a statement (known as a Proof of Evidence) and can, potentially, be cross-examined on it at the inquiry by the appellant or, more likely, the appellant's barrister – so you'll need to consider whether you want to take this on. If you've only submitted comments then you can't be cross-examined on those.

14.9.5 Four weeks before the inquiry, the appellant, Council and, if a party, objector will exchange their Proofs of Evidence. Even if you're not a party yourself, you can inspect these documents. Should you find anything in the appellant's case that you consider wrong or challengeable, either tell the Council (so that they can pick it up at the inquiry) or raise it yourself at the inquiry (in practice, Inspectors invariably let members of the public speak)

14.9.6 Should you find yourself appearing at an inquiry to present a case, there are people within CAMRA who can assist, both in preparing your case and finding expert witnesses if required. Please contact CAMRA HQ if you want to avail yourself of this service.

14.9.7 At Appendix E is a case study of an appeal which went to public inquiry and where the objectors did a brilliant job both in preparing for the inquiry then participating in the proceedings. Please, however, don't be deterred by the comprehensively detailed nature of that campaign – in most cases, a lower level of input will be quite sufficient.

## **14.10 Pub Stays Shut**

14.10.1 There's nothing to prevent the owner shutting the pub even if change of use is refused. Indeed, many owners close pubs in advance of applications being submitted or determined. Nobody is obliged to keep a pub open, though if they try to use the pub for something else which needs permission then the planners can take enforcement action against them (see 15.3). It's not unknown for owners to close a pub, strip it out then "sit" on the property in the hope that the planners will eventually give way and allow change of use rather than see a building go to rack and ruin. Obviously this is a form of blackmail and you'd hope that the Council would stand firm but that doesn't always happen.

14.10.2 In these circumstances, it's as well to be on the look out for any attempt to establish a case for a 'Lawful Development Certificate'. This will be granted by the Council if certain things can be proved, including where the use of a building has been changed (without planning permission) to use as a single dwelling house and that use has gone unenforced for at least four years. So, even if permission for residential use as a pub was refused, if a person just goes ahead and uses it for that purpose, and nobody objects, they can later apply for this illegal use to be legalised. Regular checking is therefore needed that no such unauthorised use of the pub part of the building for residential is taking place; any evidence that this might be happening must be reported to the Council who then ought to take enforcement action.

14.10.3 Another possible way forward when owners keep pubs closed is compulsory purchase. Councils have powers to make Compulsory Purchase Orders (CPOs) where there is 'a compelling case in the public interest' to do so – which might apply, for example, if an important community asset like a pub is being left to rot. In June 2011, the

Government issued guidance to Councils on the use of CPO powers to save community assets. Councils are now obliged to take seriously all viable requests put to them by voluntary and community groups for the compulsory purchase of a threatened community asset. Councils must respond formally to such requests, outlining the reasons behind their decision on whether or not to use CPO powers. Historically, Councils have been reluctant to use such powers because of the cost implications but there's nothing to lose in trying this route if your local has been left in limbo.

## 14.11 Buy it Yourself?

14.11.1 An increasing number of communities are taking the seemingly drastic step of saving their pub by buying and running it themselves. The new scheme of listing pubs as Assets of Community Value (see section 5) has, in particular, encouraged communities to consider seriously whether the best way to turn round the fortunes of their local is to take direct control of it. There are obvious advantages in ensuring that the focus of the pub business is on meeting the needs of local people. The financial and emotional buy-in from those people can't be under-estimated.

14.11.2 CAMRA has produced guidance on community buy-outs which can be found at [www.camra.org.uk/community-pub-ownership](http://www.camra.org.uk/community-pub-ownership). This includes contact details for various bodies who can offer practical advice and guidance; some case studies of successful purchases are also available.

## 15. Other Planning Issues

### 15.1 The National Planning Policy Framework

15.1.1 The NPPF came into operation in March 2012, reducing 1000 pages of national planning policy to just 52. Local Planning Authorities in England (i.e. Councils with local planning responsibilities) were given twelve months to put in place up-to-date Local Plans consistent with these national policies – these Local Plans can, of course, go into much more detail concerning local applicability.

15.1.2 Most Councils failed to meet that deadline (it **was** a pretty tall order) so due weight is now given to relevant policies in existing Local Plans “according to the degree of consistency with the Framework” - in other words, NPPF policies take precedence where there is any conflict or inconsistency. Where Local Plans are silent (as is often the case with policies on pub protection, especially in urban areas) then Framework policies apply.

15.1.3 The Framework contains several policies which are potentially very helpful to pubs – notably Section 70, which states that Local Planning Authorities (LPAs) should “guard against unnecessary loss of valued facilities where they would reduce the community's ability to meet its day-to-day needs” and should “ensure that established shops, facilities and services are retained for the benefit of the community”. The definition of community facilities earlier in the section includes public houses. This policy applies to **all** community pubs, not just those in rural areas.

15.1.4 Section 28 calls on LPAs to promote the retention and development of local services and community facilities in villages such as public houses. Section 23 tells them to recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.

15.1.5 At present, many Councils, particularly urban ones, have no policies which afford the Section 70 level of protection to pubs. The scale of pub losses in many towns and cities means that such Councils might now wish that they **did** have such local policies so that they could more easily refuse applications to change the use of pubs. The fact that the NPPF policies now take precedence enables them to do this, even if they have no explicit policy of their own.

15.1.6 If, then, you're objecting to a planning application in these circumstances, you might want one of your reasons to read something like "Section 70 of the National Planning Policy Framework states that Local Planning Authorities should guard against the unnecessary loss of valued facilities where they would reduce the community's ability to meet its day-to-day needs. I consider that the (name of pub) is a valued facility which does meet the day-to-day needs of the local community. The application should therefore be refused on the grounds that it is contrary to national planning policy"

15.1.7 Where your Council already has good Local Plan policies, you could say "I believe that the (name of pub) should be protected in line with not only existing local planning policies but also national policy that such community facilities should be retained".

15.1.8 A full summary of NPPF policies relevant to pub protection is at Appendix H.

## **15.2 Local Plans**

15.2.1 All Councils which are also local planning authorities have a Local Plan setting out the detailed planning policies which the Council will apply when considering planning applications. Many of these plans contain specific policies aimed at protecting all or some pubs and other community facilities – but there is much variation across Councils.

15.2.2 The national framework within which these Plans are established has changed several times over the years, resulting in a rather confused overall picture. Different Councils have progressed at different rates so some still have Plans made years ago under old regimes whilst others are relatively up to date with the current system. Old policies do still apply until replaced by something else – unless they are inconsistent with the NPPF (see above) in which case the latter takes precedence.

15.2.3 As with planning law, the Local Plans system in Scotland and Wales differs somewhat from the English system described here.

**15.2.4 Locating Relevant Local Policies.** The Local Plan will be on the Council's website. It may have another title, like the Development Plan or Local Development Framework, but in any event is likely to be in an area of the website titled Planning Policy or similar. These are, necessarily, long documents, written primarily for use by Planners themselves and so not the most approachable of publications. Most will have a section titled something like "Community Facilities" and it's here that you'll most likely find policies relevant to pubs – the same policies often apply also to other community facilities like shops, post offices and churches.

15.2.5 Many policies use wording to the effect that developments resulting in the loss of such facilities will only be allowed if there is strong evidence that the facility is no longer needed by the community and/or no longer commercially viable. The better policies go on to explore these concepts further. On viability, for instance, evidence may be demanded of a sustained marketing campaign to sell the pub as a going concern and submission of

trading accounts for at least three years. The best policies of all require the employment of CAMRA's Public House Viability Test (see section 16) or similar.

15.2.6 A word of caution – in many Local Plans these policies apply only in rural areas, affording some protection to village pubs (especially the last one in a settlement) but not to those in towns and cities. The NPPF has, though, redressed the balance to a significant extent – see 15.1.4

15.2.7 CAMRA is making continued efforts, at both local and national levels, to persuade Councils to adopt local planning policies strongly protective of pubs and we have developed model policies (Appendix F) which we ask Councils to consider using.

### **15.3 Enforcement Action**

15.3.1 What do you do if you think something is happening at your local which doesn't have the necessary permission? This could range from change of use to unauthorised extensions or alterations.

15.3.2 The first person to contact is the Enforcement Officer in the Council's Planning Department – their details should be on the Council website, or you could just phone the Council offices and ask to be put through. The Officer should then check what they've been told to see if it is or isn't above board. Officers have right of entry to properties to check if there has been any breach of planning control and, if so, whether enforcement action should be taken. That action could include a demand that the unauthorised works be removed and the building restored to its former state. On the other hand, the Council might decide to grant retrospective permission for the work.

15.3.3 The owner or occupier has a right of appeal to the Planning Inspectorate against an enforcement notice. It may be necessary to prove that the work has taken place, in which case photographic evidence is invaluable (the local CAMRA Branch might be able to help on this).

### **15.4 Prohibitions on Non-Pub Use**

15.4.1 Councils can include a condition within a planning permission requiring that part of a building can **only** be used for pub purposes. This is most likely to arise where an application is made to extend and/or refurbish a pub with the intention that it operates primarily as a restaurant. As we've seen, no permission is needed for a change of use from pub to restaurant but it **is** needed for significant alterations to the structure. This gives the planners the opportunity, if they wish, to insert a condition about continuing pub use.

15.4.2 Typical wording would be "Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, the area annotated as "bar" on drawing x shall not be used for any purpose other than as a public house". The reason given could be "To ensure that the premises contribute to the social amenity of the local population by providing a range of social facilities available to residents in the locality in accordance with (the relevant local planning policy)". So, if you become aware of a proposal to change a pub into a restaurant, but the works require planning permission, try to persuade the Council to insert a condition like this.

### **15.5 Partial Loss**

15.5.1 Some planning applications seek changes which would reduce the size of a pub e.g. loss of a kitchen or meeting room. Others aim at conversion of non-public areas such as converting upper floors to offices or general residential (as against licensee accommodation). There have also been applications which envisage demolition of the pub but its replacement, on a smaller scale, in the new development.

15.5.2 All these initiatives threaten the viability of a pub and are often the thin end of the wedge to total loss – hence why they are sometimes referred to as “Trojan Horse” applications. Objections to any such proposals should focus on the likely adverse impact on the long-term financial health of the business. Loss of licensee accommodation may well make the pub unattractive to potential future licensees, thereby causing recruitment problems.

## **15.6 Demolition**

15.6.1 As briefly mentioned at 7.2, there is little to prevent an owner simply knocking down a pub unless it's a listed building or in a conservation area. Notice of proposed demolition does have to be given to the Council but, within this process, the Council can only consider the effects of demolition and restoration of the site.

15.6.2 Planning permission **will** be needed for any development on the vacant site and Councils should be encouraged to stand firm when attempts are made to circumvent the planning system in this way. They ought only to allow appropriate alternative development on the site, even if that means it stays empty. Otherwise, the message to developers is knock it down first and sort out the planning later.

15.6.3 Unfortunately, it has now been established that once a building has been demolished, the former use is extinguished so this does make it difficult for Councils to insist on any new development being in the same or similar use class. CAMRA is campaigning for planning law to be changed so that full planning permission is needed for demolition of community facilities like pubs, but the current Government is not sympathetic.

## **15.7 Mixed Use Classes**

15.7.1 Where a building is being used for different purposes which fall into more than one Use Class, then the overall use of the building is regarded as 'mixed'. The exception to this is where it can be shown there is a primary use of the building to which other uses are ancillary. Applicants have been known to claim that a pub is in mixed use and that another of the uses e.g. as a restaurant or hotel, is the primary one. This is invariably an attempt to circumvent planning policies which protect pubs but not the other use. In most cases this is a 'try on' and it can easily be demonstrated that the pub use is the main one – but it's advisable to ask the Council to clarify the position as they see it at an early stage.

## **15.8 Internal Alterations to Non-Listed Pubs**

15.8.1 As previously mentioned, these don't need planning permission. However, the local Licensing Committee must approve any such changes as they'll require an amendment to the Premises Licence. The applicant has to advertise the proposals in the local press, advising the date by which any objections can be made. The Licensing Committee must then consider such objections at a hearing, unless they're considered to be frivolous or vexatious.

15.8.2 To be successful, objectors have to demonstrate that the proposed alterations could adversely affect the control of the premises. CAMRA believes that multi-roomed pubs provide a much more civilised, and controllable, environment than open-plan, vertical drinking beer barns and any proposals to remove walls and otherwise open out a pub could be objected to on these grounds. Objections also need to allude to the four licensing objectives in order to carry weight and not be ruled frivolous. These objectives are:

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

## 15.9 Early Warning Signs

15.9.1 Beware – a planning application may not be what it seems, especially in the murky world of pub-to-supermarket conversions. There have been several instances of pub owners applying for extensions or alterations to pubs which, on close scrutiny, are clearly designed to make them a more attractive proposition to a new owner who has a shopping use in mind. Treat any application concerning your local, especially if it's owned by a pub company or brewery, with suspicion until you've satisfied yourself the desired end result is in the long term interests of the pub itself. Be aware also that sometimes the sale has already been agreed before the suspicious application is submitted.

## 16. The Public House Viability Test

16.1 The PHVT has been developed by CAMRA, in conjunction with professional planners, over a number of years. It's aimed primarily at planners themselves, offering them advice on dealing with planning applications where the owners claim the pub to be no longer commercially viable. It's also targeted at Planning Inspectors. However, CAMRA Branches and other campaigners have used the Test themselves to help build up their cases on applications and appeals. It comprises a series of questions which should be answered before it can be determined whether, in the right hands, the pub could be a viable business proposition.

16.2 The PHVT is well respected in the planning field and used increasingly by Council planners and government inspectors. The former Director of Policy and Head of Profession at the Planning Inspectorate told CAMRA “the questions in your booklet seem to me helpful and to the point. Local planning authorities may, for example, wish to draw on the questions and to include similar material in supplementary planning documents”. If you're objecting to an application where viability has been raised as an issue then you should **always draw specific attention to the PHVT**, submit arguments as to why the pub could be turned into a thriving concern and exhort the Council to **use** the Test in their evaluation of the application, recording this in their decision. Although the PHVT has been supplied to all planning authorities, it's a good idea to include a link to it within your objection submission – [www.camra.org.uk/public-house-viability-test](http://www.camra.org.uk/public-house-viability-test). Similarly, if there's an appeal, send a link to the Planning Inspector. In both cases, if your submission is on paper, you could consider printing off a copy and including it