

How change of use is handled in the planning system – Issues Paper



**CAMPAIGN
FOR
REAL ALE**

**Response from CAMRA,
the Campaign for Real Ale**

August 2011

A. Introduction

1. CAMRA, the Campaign for Real Ale, is an independent consumer organisation which campaigns for real ale, community pubs and consumer rights. Membership is open to all individuals and our membership is over 125,000.
2. CAMRA believes that the current planning system fails to give sufficient protection to valued community pubs, many of which have been established for hundreds of years and are fully integrated into the local area thus minimising negative land impacts. CAMRA therefore disputes the assumption inherent in the current system that the land use impact associated with pubs is always greater than the land use impact of A3, A2 and A1 uses. The justification for allowing pubs (A4 use class) to be converted into the following uses without planning permission is weak:
 - (A1) shops
 - (A2) professional and financial services
 - (A3) restaurants and cafes
3. CAMRA's research¹ indicates that of the pubs that are permanently lost:
 - 21% are demolished
 - 45% are converted to shop, café, restaurant or financial services use
 - 34% are converted to another use – mainly residential
4. CAMRA strongly opposes any weakening of the already limited protections currently available for essential local pubs. We believe that these community facilities need and deserve greater protection, not less.
5. The flexibility for a pub to be converted into such a wide range of uses without planning permission has created a market distortion and has artificially inflated the land value of pubs on sites especially attractive to other uses, particularly betting shops, pay day loan stores and supermarket metro style stores seeking to secure sites where an extensive battle over planning permission is not required. This is contributing to the loss of 25 pubs a week.

B. Giving back to the community: pubs and other essential community services

1. Pubs are more than just buildings; they are the heart of their communities and this must be reflected in the planning system. The Institute of Public Policy Research (IPPR) found that each pub injects an average of £80,000 into their local economy every year.² Pubs also host community events, provide a safe and regulated environment for meeting new people, and help to promote responsible drinking. The vast majority of pubs have a net positive land impact and this must be recognised in the planning system.
2. CAMRA's research³ demonstrates the importance of well-run pubs to their communities:
 - 69% of people think a well-run community pub is as important to community life as a post office, local shop or community centre

¹ CAMRA's Pub Watch Survey of over 21,000 pubs, 2009

² Rick Muir, *Pubs and Places: The Social Value of Community Pubs*, IPPR, 2009

³ TNS – CAPI Omnibus – CAMRA Tracking Omnibus Survey, June 2010

- 81% agree that Local Authorities and local people should be consulted before a developer is given permission to demolish a valued community pub, community centre or other local service
 - 43% would be willing to take action to help save a local pub threatened with closure (such as join a campaign group, donate or volunteer to help run the pub)
3. Despite this, communities are currently powerless to influence their environments by preventing their pubs from being transformed into a whole range of alternative uses. CAMRA strongly supports the principle that a community amenity as valuable as a pub should not be permanently lost to another use without the community having a chance to have a say and without the pub being offered for sale as a going concern at a fair market value for a pub business.
 4. This frustration and powerlessness is also felt by planning officers. In 2008, CAMRA conducted a survey of Local Authority Planning Officers. Surveys were sent out to 358 Authorities, with a response rate of just over 50%. In summary:
 - 66% were unsatisfied or very unsatisfied that existing planning regulations give sufficient protection to public houses from change of use or demolition
 - 65% would support a change in planning regulations to require planning permission to be in place before a public house can be demolished
 - 67% would support a change in planning regulations to ensure that the conversion of a public house to any other use requires planning permission
 5. The Issues Paper states that Government wants to deliver “strong and vibrant communities”⁴, but this vibrancy is under threat and our high streets are becoming increasingly indistinguishable due to the prevalence of big companies, which affect the viability of small independent businesses such as pubs. This was demonstrated in the New Economics Foundation’s “Clone Town Britain” Report, which states:

“Real local shops have been replaced by swathes of identikit chain stores that seem to spread like economic weeds, making high streets up and down the country virtually indistinguishable from one another. Retail spaces once filled with a thriving mix of independent butchers, newsagents, tobacconists, pubs, bookshops, greengrocers and family-owned general stores are becoming filled with faceless supermarket retailers, fast-food chains, and global fashion outlets.”⁵

C. Responses to Questions Posed

1. Should material change of use continue to be considered as ‘development’ and handled through the planning system? If not what alternative approach might be used?

- 1.1. CAMRA welcomes the Court of Appeal ruling in March 2011 (in relation to a case brought by SAVE Britain’s Heritage) that demolition is classed as development.⁶ It is essential that any change of use or demolition of a public house is defined as development. Any watering down of the current weak planning protections for public

⁴ Issues Paper p4

⁵ New Economic Foundation, “Clone Town Britain”, 2004, p1, available online at:

<http://www.neweconomics.org/publications/clone-town-britain>

⁶ <http://www.savebritainsheritage.org/news/campaign.php?id=182>

houses would be fiercely opposed by community groups and Local Authorities, and furthermore would be regarded as anti-community, anti-local and anti-business.

- 1.2. The Government must recognise that a removal of planning control will result in changes to land values which may make current business uses uneconomic - causing closures, job losses and a loss of services to the community.
- 1.3. The Issues Paper acknowledges that in certain circumstances “the change of use is often opposed not because of the land use impact but for wider community reasons.”⁷ CAMRA believes this is a legitimate function of the planning system and that communities need more opportunities to speak out against changes of use where the change in land use will have a negative impact on the local neighbourhood.

2. The Use Classes Order and associated permitted development rights currently are a national regime for changes of use without planning applications. However, they can be extended locally to meet local needs through Local Development Orders (and in future, through Neighbourhood Development Orders). Is this model effective and is it sufficiently flexible to meet most circumstances?

- 2.1. Local Development Orders can be used by local communities to extend permitted development rights within a local area, but not to restrict permitted development rights to support the retention of key community amenities such as pubs. Local Development Orders should be extended so that communities can require that no change of use involving specified local community assets can proceed without planning permission.
- 2.2. Theoretically, local planning authorities can use Article 4 Directions to restrict permitted development rights in order to extend the protection available to local services based on local needs. However, Article 4 Directions are currently ineffective and they are simply not being used by local planning authorities. In addition to the significant “compensation liabilities”⁸ that they can attract from developers, Article 4 Directions are overly bureaucratic and are currently not fit for purpose for widespread use.
- 2.3. Therefore, CAMRA believes that Article 4 Directions must be significantly altered before they will be an effective tool for local planning authorities in protecting local assets. In particular CAMRA proposes:
 - The removal of unnecessary bureaucracy and red tape from the process of issuing an Article 4 Direction
 - A review of compensation liabilities to provide greater certainty for Local Authorities
 - Advice from the Chief Planning Officer encouraging Local Authorities to utilise Article 4 powers to protect community assets

⁷ Issues Paper p5

⁸ Issues Paper p5

3. Do you think that the current classes of use in the Use Classes Order are still appropriate?

- 3.1. CAMRA welcomes the creation of a separate Use Classes category for pubs but regards this as a first step to moving pubs into a sui generis category so that any changes to a pub require planning permission. Well-run pubs perform a clearly distinct function at the centre of their communities, a function which is not offered in the same way by any other local business (see section 2 above).
- 3.2. The operation of the current system of permitted development's link to the Use Classes Order has created market distortions and has resulted in profitable pubs being lost. This is because alternative businesses are often willing to pay substantially more to acquire the premises and permitted development rights than could be justified by a pub operator. For example, developers can target pubs for conversion into supermarket metro stores as this allows them to bypass regulations on delivery timings and noise from refrigeration equipment. In these cases, the new use (the shop) clearly has more of an adverse impact on the local neighbourhood than the original (pub) use, and yet people living nearby do not have an opportunity to object to the new use.
- 3.3. The Government has committed to support community pubs and be a "pub friendly Government". Designating pubs as sui generis would be an enormous step towards demonstrating this.

4. The current regime seeks to secure a balance between deregulation and protecting the citizen. Has the right balance been struck or should there be more deregulation than currently allowed through the Use Classes Order and permitted development rights?

- 4.1. CAMRA strongly believes that the current regime fails to strike a fair balance between deregulation and protecting the citizen. The extent of current permitted development rights is such that citizens are not sufficiently protected. It is essential that community growth through development is balanced with community opportunity to influence local environments.
- 4.2. At present, it is possible to change the use of a community pub, local shop or post office to another function which unquestionably does not make an equivalent contribution to the local community. One of the starkest examples is the transformation of pubs into betting shops. This is especially prevalent in deprived areas of London such as Tottenham where there are 37 gambling establishments, posing a risk to vulnerable members of the community.⁹ Appendix B lists examples of pubs which have been changed into betting shops in London alone, without the need for planning permission. The failure to consider community contribution or potential damage to the community is a major weakness in the current system.
- 4.3. Currently, developers are able to purchase a pub that is viable, and change its use or demolish it without the community or an alternative pub operator having an opportunity to make the pub a success. Even where the short term evidence is that a pub is not profitable, this does not indicate long term non-viability, and does not

⁹ [http://www.davidlammy.co.uk/No More Gambling With Our Community](http://www.davidlammy.co.uk/No_More_Gambling_With_Our_Community)

mean that a pub's fortunes could not be turned around.¹⁰ The balance must be tipped in the community's favour so we can see more pubs allowed to survive long enough to thrive.

4.4. While the Government's proposed 'Community Right to Buy' scheme would go some way towards empowering communities, concerns remain that other pub companies or breweries would not have an opportunity to bid to run threatened pubs, and pub owners could unreasonably refuse bids from the community.

5. Does the current operation of the Use Classes Order go far enough to remove inappropriate barriers to growth and allow for potential for changes of use that boost growth?

5.1. The current system allows for a pub to be converted into a whole range of alternative uses some of which will inevitably fail. Any community group or pub operator then faces the barrier of requiring planning permission and also a premises licence if they wish to reopen a pub. This is an inappropriate and excessive barrier that restricts the reopening of closed pubs.

5.2. CAMRA strongly supports pubs becoming sui generis in the planning system so that pubs cannot be lost without community consultation and an opportunity for a new pub operator to step in. Pubs make a significant financial contribution to their local economies. The maintenance of these buildings as pubs would safeguard this financial contribution. In the absence of such a step CAMRA would support a liberalisation of rules so that former pubs can be returned to pub use from A1, A2 or A3 uses without a requirement for planning permission.

6. In addition, the review team would welcome any further views or evidence on how the current Use Classes Order and associated permitted development regime is working.

6.1. While we recognise that this Issues Paper is primarily concerned with the Use Classes Order, we feel that it is relevant to also discuss demolition. We welcome the March 2011 ruling that demolition is classed as development, although as demolition is "permitted development" the move has not in reality offered communities much opportunity to oppose the demolition of pubs.¹¹ There is an assumption that demolition of pubs is permitted, unless the local planning authority issues an Article 4 Direction. As we have explained above, Article 4 Directions are not an effective tool to protect community assets.

6.2. CAMRA therefore believes that either Article 4 Directions must be strengthened, or demolition should be moved outside of the scope of permitted development. This would simply mean that a developer wishing to demolish a pub in order to build houses would need to seek planning permission before rather than after the demolition has taken place. At present, developers are circumventing requirements

¹⁰ Please see Appendix A for examples from Pub is the Hub (<http://www.pubisthehub.org.uk/>) where communities have made a success of pubs despite the risk of them being lost to development. Sadly, these examples are all too few.

¹¹ Current examples of communities wishing to oppose demolition of local pubs include: http://www.theboltonnews.co.uk/news/districtnews/districtsttoz/9161764.Demolishing_pub_will_rip_the_heart_out_of_our_community/ and http://www.middevonstar.co.uk/news/devon_news/9166006.MP_back_fight_to_save_Barge/

to seek planning permission before changing the use of premises from “A” class to “C” class by simply demolishing the building, thus extinguishing its former use. Below are two examples which demonstrate this:

- *Easton Inn, Easton, Near Wells, Somerset, BA5 1DU*

In this case the Planning Inspectorate ruled that policies aimed at retaining community facilities had no relevance given the earlier demolition of the pub and therefore granted planning permission for 8 dwellings.

- *Royal Oak Public House, Missenden Road, Great Kingshill, HP15 6DN*

In January 2007 the Planning Inspector ruled that the “demolition of the pub started a new chapter in the planning history of the site”. The vacant site therefore had a nil use for planning purposes, and so the Planning Inspector granted planning permission for 13 dwellings.

D. Conclusion

1. CAMRA strongly believes that the Government should consider the following solutions, in order to help strike a fair balance between encouraging development through deregulation, and protecting citizens and communities which are fighting to protect the assets that they value:

- Designate pubs as sui generis, to ensure that planning permission is required prior to any change of use of a pub. This would remove the market distortion which is inflating the land value of certain pubs as a result of the permitted development rights. This land value inflation is leading to the closure of profitable businesses
- Simplify the process for issuing Article 4 Directions by removing unnecessary red tape, and encouraging local planning authorities to make a greater use of them in protecting local assets
- Remove permitted development rights in relation to demolition of pubs, ensuring that planning permission is required so that communities have an opportunity to oppose the permanent loss of a wanted and viable community asset.

Need more information?

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Appendix A – examples of where communities have made a success of pubs under threat of development

Dykes End, Reach, Cambridgeshire

The licensee, a free-trader, had run into difficulties and lost business. At the end of 1997 he announced that he was going to submit for a change of use to residential.

An action group led by Bryan Pearson was quickly formed and mandated by a public meeting to explore all avenues towards saving the pub. The group played a strong media hand, and also contacted the East Cambridgeshire District Council (ECDC). After several meetings ECDC decided that closure would contravene the local plan and should therefore be resisted. It was a courageous move, as at the time, no Council had taken such a stance, and there was no central government guideline to support its position. The Council carefully pondered the legal implications, and decided that as the pub was the last amenity in the village, it was prepared to defend any legal challenge on the grounds of the newly emerging concept of community sustainability.

The Dyke's End - won the 'Village Pub of the Year' Award, and four years later was sold on to new ownership under which it has continued to grow and thrive. A micro brewery has also now been added at the rear of the pub.

New Inn, Shipton Gorge, Dorset

In October 2005, the New Inn closed, and the local community concentrated its energy, efforts and time to look at ways in which the village might be able to work as a community to secure a lease for the New Inn and run it as a community pub, to ensure the building was not sold for property development.

The whole enterprise galvanised the village and engendered a great deal of community action, with villagers spending 6 weeks getting the pub ready. The New Inn re-opened its doors in August 2006, creating 2 full-time and 3 part-time jobs for local people.

The closure of the pub and its subsequent regeneration has brought the community together. The pub has quickly built up a reputation for good food and drink, and has restored the winter pub game activities of darts and cribbage. The jobs provided increase during peak seasonal periods, and the pub is on a sound financial footing.

George and Dragon, Hudswell, Yorkshire

The pub closed in August 2008 following the bankruptcy of the then landlords. After a long campaign, Hudswell Community Pub Ltd (HCP Ltd) successfully acquired the freehold in February 2010, during which they received advice and support from Pub is the Hub. HCP Ltd is a Co-operative for Community Benefit, and most of the funds to purchase and renovate the pub were raised from the 180 members of the Co-operative and supplemented by grant aid. Tenants were appointed by the Co-operative to run the licensed business, based on their enthusiasm, the wealth of ideas that they had for promoting the business,

driving up the food sales and developing a range of service for the village. Since then trade has been healthy and the pub has been restored as the central focus of village life.

As well as acting as a meeting place, venue for village events, celebrations and regular cultural and sporting activities, the pub also hosts the village library, with books provided by the County Council Library service, and hosts a monthly book club. There are also ten allotments provided on land at the rear of the pub and these are all let to villagers and/or member of HCP Ltd, and have provided some produce for the pub kitchen. A village shop has also been constructed in part of the pub; this has its own door onto the street and is managed by HCP Ltd (rather than the tenants) and staffed by volunteers.

Raven Inn, Llanarmon yn Lal, Wales

After 3 months of closure the local community decided to take over the Raven Inn and to run it as a co-operative of volunteers.

The Raven Inn in Llanarmon yn Lal has been the hub of the community for centuries. The freehold pub, built in 1772, was put up for auction but failed to reach its reserve price. The community tried to buy the pub but it was not possible. The pub closed for three months and faced with losing the pub the village decided to run it as a co-operative on a voluntary basis and formed a committee.

The Raven Inn has been run by the community since August of 2009. The Raven Inn is manned by volunteers and any profit can only be used to fund village community projects.

Appendix B – London pubs which have been changed into betting shops

The Railway Tavern, Mare Street Hackney – former Charles Wells pub, converted to a Paddy Power betting shop

The Hope, Rye Lane, Peckham – converted to a Paddy Power betting shop in May 2011, despite strong objections from local councillors and residents

Finnigan's Wake, 251-253 Neasdon Lane, London NW10 1QG - turned into a William Hill betting shop

Havelock Arms, Southall - Ladbrokes have permission to convert to a betting shop

Bakers Arms, Leyton High Road/ Lea Bridge Road junction, Waltham Forest – changed to a Paddy Power betting shop in February 2010

Deptford Arms, 52 Deptford High Street, Lewisham - to be converted to a Paddy Power betting shop

Old Globe, Mile End Road – converted to Ladbrokes

John Evelyn, Evelyn Street, Deptford – converted in May 2011 to a Paddy Power betting shop

The Globe, Evelyn Street, Deptford – converted to a betting shop with residential above

Old Suffolk Punch, Greens Lane, Finsbury – converted to a Ladbrokes betting shop

The Shout, Redvers Road, Wood Green – converted to a Paddy Power betting shop