

## **PUBLIC HOUSE VIABILITY TEST**

### **FOREWORD**

As campaigners on behalf of British pub-users, CAMRA sees the protection of public houses as one of its highest priorities. Many of the pubs which have called last orders for the final time in recent years would, in the right hands, have continued serving their local communities as well as providing a decent living for those running them.

The planning process, in most cases, affords the only publicly accessible forum for debate on the issues around applications to change the use of pubs. Viability is of course not the only factor to be considered in such cases but CAMRA believes it to be important enough to warrant the separate guidance presented here. It offers a standard, objective test which will assist planning decision makers to make fair, open and informed judgements on the question of viability.

The first edition of this guidance appeared in 2000, following extensive consultation with relevant professional bodies. It quickly established itself as an authoritative text and has been widely used both by local authority planners and by government inspectors.

This second edition builds on and refreshes the original and includes new and different case studies. CAMRA's hope is that it will gain even greater recognition as good practice, both in Government planning guidance and local planning policies.

### **INTRODUCTION**

“What right have local authorities to question decisions made by businesses about their own properties?”

These are the words of an outraged planning consultant to breweries and pub-owning companies, reacting incredulously on hearing that planning authorities were regarding the viability of pubs as a relevant issue when considering applications to change their use.

Some might think the consultant's question fair. However, the fact is that questions of viability are now an increasingly important factor in planning decisions, as evidenced by the case studies which appear later in the booklet.

### **WHY IS VIABILITY SUCH AN ISSUE?**

The British public house, one of our greatest institutions, is under threat as never before. An estimated 16 pubs close permanently every week and this rate shows no sign of slowing. Nor is this just a rural problem; our towns and cities are also losing pubs on a massive scale, especially away from the town centre drinking circuits (where a rash of new bars hardly makes up for the loss of traditional community pubs elsewhere).

In many cases, the owners of these threatened pubs are seeking to convert them to other uses. Sadly, such changes of use do not always require planning consent – for instance where the change is to a shop or a restaurant. However, conversions to dwelling houses (and a few other uses) do need permission.

In marshalling their arguments as to why change of use away from a pub should be allowed, applicants will very often claim that the pub is “not viable” i.e. that it is no longer a commercial proposition and that no licensee could reasonably be expected to make a living there. The applicants might claim that the area is over-pubbed, or that the premises are too small, or that the catchment area is not large enough and so on. The planning authority has to evaluate whether these claims that the business is inherently unviable are well founded or not. This guidance aims to help authorities to make those decision fairly and objectively.

## **CASE STUDIES**

### **Case One**

A proposal in Wiltshire involved the change of use of a public house in a village to a dwelling. The appellants argued that the business was not viable and that in its last trading year it lost £40,000 despite the introduction of a range of measures to increase local support. This level of loss led to its closure. The Inspector observed that there was only one other pub in the village and this was used essentially for the sale of beer. It did not have family facilities and did not have the potential to offer an extensive range of food in contrast with the appeal premises. Consequently the loss of the main public house in the village would be detrimental to the well-being of the local community. In examining the viability of the business the Inspector noted that the appellants had appeared to pay more than the business was worth based upon its turnover and the asking price therefore did not realistically reflect its use as a public house. Letters from local residents suggested that the premises had developed an unfriendly environment and the Inspector accepted that the management of a public house had a direct bearing on profits. This led him to conclude that it would be viable if it was operated in a manner which met local demands and acquired at a realistic valuation such that new occupiers would not face over-large set up costs. The appeal was therefore dismissed. (ref APP/J3910/A/00/1056622).

### **Case Two**

A brewery wished to change the use of a village pub in Cambridgeshire to a dwelling house. The planning authority refused consent and the brewery appealed. The Inspector considered the main issues to be whether loss of the pub would materially harm village life and whether the pub was capable of being commercially viable.

In considering the latter question, the Inspector had regard to the first edition of this booklet which he said offered “useful guidance”. He felt that “Where a pub is still operating, I consider it particularly important that clear evidence of its unviability should be produced”. He concluded that licensees “will not make a fortune here, but a modest living could probably be made, given a degree of flexibility and goodwill from all concerned”. The proposal “would amount to a serious loss to the social life of this village and lack of viability has not been clearly demonstrated”. The appeal was dismissed (ref APP/W0530/A/00/1047568).

### **Case Three**

The applicants had wished to convert a pub in South West London into several dwellings. The local authority had a policy which sought to ensure a suitable range of community facilities was maintained to meet local needs and refused the application which then went to appeal. The appellant claimed that the business was not viable and could not become so without major investment.

The appeal premises had been built approximately 100 years ago and the Inspector accepted that it had a neglected external appearance which would benefit from investment and renewal. He judged the appellant’s argument relating to investment and viability to be self-defeating, noting that it was illogical to state that the business needed investment in order to prosper and that it could not be made viable because the investment was not justified. He noted that it remained in active use and there was no evidence to indicate that it would not continue. He held that marketing details were inconclusive and unconvincing and accordingly it was appropriate to uphold the local planning policy. The appeal was rejected because it would lead to a loss of an important community facility notwithstanding that it was a commercial enterprise and not a publicly-funded facility (ref APP/H8390/A/01/1080033).

### **CONCLUSIONS**

In each of these cases, the appellants introduced the issue of the non-viability of the pub as a major reason for justifying a change of use. In each case, also, the Inspector agreed that this was a relevant, indeed crucial, issue. None of the Inspectors was convinced that, in the right hands, the pubs concerned would not be viable commercial propositions. In reaching this conclusion, each Inspector was clearly of the view that an objective assessment could be made about the likely future viability of the pub.

The Public House Viability Test, which follows, shares that view. It is intended to help all concerned in such cases – local authorities, public house owners, public house users and, indeed, Planning Inspectors, to subject arguments made about viability to rigorous scrutiny and testing against a set of well-accepted yardsticks.

The Viability Test does not seek to protect the continued existence of each and every pub in the land. Times and circumstances do change and some

pubs will find themselves struggling to continue as a going concern. However, any arguments put forward to that effect must be exposed to reasonable analysis so that they may be properly understood and, where appropriate, assessed and questioned by those concerned.

It cannot be denied that the Test is easier to apply in rural than in urban areas; however the same principles are equally relevant for all pubs, especially given the need to maintain a range and choice of community facilities in towns and cities.

Finally, it is worth emphasising that, currently, the planning process is the only publicly accessible forum for debate about the future of individual public houses. If somebody wants to open a new public house, they must apply for planning permission (a process influenced by public consultation) and they must apply for a premises licence (again a process where public comment is heard).

Owners wishing to close a public house may do so immediately, without further reference to the planning authority. Only when they wish to convert the public house into another use might they have to embark upon the planning process, and it seems reasonable for this proposal to be keenly scrutinised on behalf of the general public. In such cases, the issue of viability can clearly be one of a number of possible determining factors.

The test will not stop all pubs closing, but it is a necessary and positive step forward which, we hope, will save many potentially successful pubs from closure and subsequent change of use. We hope the document will be widely used by all relevant professionals and be of help to planning committees and appeal inspectors throughout the UK.

Never have the words of poet Hillaire Belloc rung more true:

*“When you have lost your inns, drown your empty selves, for you will have lost the last of England.”*

## **PUBLIC HOUSE VIABILITY TEST**

Considerations when assessing continuing viability of a pub business when change of use is applied for.

**The question to be addressed is:**

**“What could this business achieve given a management dedicated to it, and with full discretion over stocking policy and type of operation?”**

## **Assessing Trade Potential**

### 1. Local Trade

What is the location of the pub? Village, suburban, urban, town centre, isolated country?

What is the catchment area of the pub?

How many adults live within a one mile radius?

In rural areas, how many adults live within a ten mile radius?

Are there any developments planned for the area? Industrial, residential, strategic projects?

Is there daytime working population?

### 2. Visitor Potential

Is the pub in a well visited/popular location? Is it in a picturesque town or village, on a canal/river side, on a long distance footpath, or on a cycle route?

Does the pub appeal to those groups who regularly drive out to pubs?

Is tourism encouraged in this area?

Has the pub ever been included in any visitor or tourist guide?

Does the pub act as a focus for community activities? Sports teams, social groups, local societies, community meetings etc?

### 3. Competition

In rural areas, how many pubs are there within a one mile radius and within a five mile radius?

In urban areas, how many pubs are there within reasonable walking distance?

Bearing in mind that people like a choice, does the pub, by its character, location, design, potentially cater for different groups of people from those of its nearest competitor(s)?

If no, could the pub be developed to cater for different groups?

4 Flexibility of the Site

Does the pub/site have unused rooms or outbuildings that could be brought into use? Function rooms, store rooms etc.

Is the site large enough to allow for building extensions?

Have planning applications ever been submitted to extend/develop the pub building? If yes, when and what was the outcome?

If planning consent was not available for building work, is any adjoining land suitable for any other use? Camping facility etc.

Has the pub been well maintained?

5 Parking

Is there access to appropriate numbers of car parking spaces?

If no, is there any scope for expansion?

6 Public Transport

Is there a bus stop outside or near the pub and/or a rail station within easy walking distance?

How frequent is public transport in the area?

How reliable is the public transport in the area?

Has the pub made actual/potential customers aware of any public transport services available to/from it?

Are there taxi firms in the locality?

Has the pub entered any favourable agreements with a local taxi firm?

7 Multiple Use

In the light of government guidance through the National Planning Policy Framework (see the Appendix) what is the extent of community facilities in the local area – is there a shop, post office, community centre etc?

If the pub is the sole remaining facility within the area, is there scope for the pub to combine its function with that of a shop, post office or other community use, bed & breakfast or self-catering – especially in tourist areas?

Partial Loss

(These questions come into play if the application seeks changes which would reduce the size of the pub or convert non-public areas, such as licensee accommodation, to other uses)

How would the proposals impact on the long-term financial health of the business? Would a smaller pub still be able to attract sufficient trade? Would the smaller size make it less attractive to customers e.g. because there were fewer facilities?

Would any loss of licensee accommodation make the pub less attractive to potential future publicans?

### **Competition Case Studies**

Are there any successful pubs in neighbouring areas of similar population density?

What factors are contributing to their success?

### **The Business Past and Present**

Having built up a picture of the business potential of the pub, it may be relevant to question why the pub is not thriving and why the owners are seeking change of use.

Is the business run by a tenant or a manager?

Does the pub management have local support?

Has the pub been managed well in the past? Is there any evidence to support this? Are trading figures available for the last four years and/or from previous management regimes?

Have there been recent efforts to ensure viability? e.g. has the pub opened regularly and at convenient hours?

Has the focus/theme of the pub changed recently?

Is the pub taking advantage of the income opportunities offered by serving food? How many times a day is food served? How many times a week? Are any catering facilities being optimised?

Has the rent/repair policy of the owner undermined the viability of the pub?

Are there any non-standard circumstances relating to local authority business/rates/taxes?

Are there any possible unclaimed reliefs? e.g. where rate abatement is not granted automatically but has to be claimed.

## The Sale

Where and how often has the pub been advertised for sale? Has it been advertised for at least 12 months? In particular, has the sale been placed with specialist licensed trade and/or local agents?

Has the pub been offered for sale as a going concern?

Has the pub been offered at a realistic competitive price? (Information to enable this to be analysed can be obtained from The Publican and Morning Advertiser newspapers and from Fleurets, specialist Chartered Surveyors)

If yes, how many offers have been received?

Have any valuations been carried out?

Has the pub been closed for any length of time?

Does the sale price of the pub, as a business, reflect its recent trading?

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## APPENDIX

National government planning guidance was, until recently, contained in various Planning Policy Statements which between them ran to over 1000 pages. They were replaced in March 2012 by the National Planning Policy Framework (NPPF) which comprises just 52 pages of mostly high-level guidance. Local Planning Authorities (LPAs) have until 27 March 2013 to put in place up-to-date Local Plans which are consistent with the broad national policies. After that, NPPF policies will take precedence where there is any conflict with Local Plans and will always be a material consideration in planning decisions.

NPPF Paragraph 70 is especially relevant to planning applications which concern pubs. It requires LPAs to “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.” It goes on to say that LPAs must “guard against unnecessary loss of valued facilities where this would reduce the community's ability to meet its day-to-day needs” and “ensure that established facilities and services...are retained for the benefit of the community”. Note that this policy applies to pubs in all communities, not just rural ones.

Paragraph 7 states that the planning system should create “accessible local services that reflect the community's needs” while paragraph 17 requires planning to “deliver community and cultural facilities and services to meet local needs”



Paragraph 28 promotes “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”

Paragraph 23 recognises “town centres as the heart of their communities” and instructs LPAs to pursue policies to support their viability and vitality.