

PROTECTING THE PUB

INTRODUCTION

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

CAMRA puts much effort into promoting pubs and pub-going and there is separate guidance for our Branches about this (“Promoting the Pub”) which can also 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.

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.

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

<http://www.camra.org.uk/page.php?id=127>

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PROTECTING AND SAVING PUBS

1. THE NATURE OF THE PROBLEMS

- 1.1 The threat to pubs in terms of closure is real and immediate. A combination of factors, but especially falling customer numbers and high property prices, is tempting more and more pub owners to shut down pubs and convert the buildings to other uses. However, there are many examples of communities successfully fighting to save their local pubs, often with the help of their local CAMRA Branch.
- 1.2 Closures, though, aren't the only problem. Many pubs have been subjected to unsympathetic and inappropriate alterations. These can destroy the atmosphere of a pub or even change it into something essentially different e.g. a licensed restaurant or a kindergarten with bar attached.
- 1.3 Many (though, sadly, not all) such changes require planning permission and the planning system often represents the best chance to save a pub from oblivion or ruination. There are, though, other aspects to effective campaigning which will be covered later.

2. CAMPAIGNING TO SAVE A PUB

- 2.1 Despite all the threats to pubs, the good news is that many successful campaigns have been fought to stave off closure or redevelopment; there are numerous now-thriving pubs up and down the country which would be private houses or heaps of rubble but for the efforts of local campaigners.
- 2.2 Although the emphasis in what follows is on fighting closure attempts, the same basic approaches and tactics can be used if the threats are of a lesser but still undesirable nature e.g. proposals for major alterations which would adversely alter the character of the pub.

Community Support

- 2.3 It's essential to the success of any campaign that it can demonstrate widespread local community support. Should the people round about not give a stuff 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.
- 2.4 The priority therefore is to identify who will join you in fighting the good fight. Often a local group will form pretty quickly anyway, if the pub is well used and much loved. In some cases, the local CAMRA Branch might take the lead e.g. by contacting the Parish Council or visiting the pub and talking to the locals. Should the regulars be unwilling to make a protest then a campaign will be up against it from the start.
- 2.5 In many cases, an embryonic campaign group will contact the local CAMRA Branch to seek its support. CAMRA Branches are however expected to avoid any temptation to "take over" – their role should be to assist and enable.

- 2.6 A scenario sometimes develops where a licensee succeeds in alienating the local community (perhaps deliberately) to such an extent that hardly any locals are left! Often it's the case that in the right hands such a pub would be a valuable community asset and in these instances the net needs to be spread a bit wider to try and enlist support; you're trying to reach the people who would use the pub if it wasn't for the particular person in charge.

Getting Started

- 2.7 Once the closure stories or rumours start then intelligence gathering is the first step. Who owns the pub? Is it the licensee him/herself? Or a property developer? Or is it a pub company or brewer? If the latter, then who within the company has made the decision?
- 2.8 In either case, you next need to find out why. 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 the owner, perhaps they're retiring and want to maximise their assets. Your tactics will to some extent depend on the answers to this question.
- 2.9 Pubs can also come under threat from wider 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 about what is being planned and how you can register your protest e.g. will there be a public inquiry?

Viability

- 2.10 By far the commonest reason given for wanting to close a pub is that it isn't "viable" i.e. not only isn't it profitable now but it has no hope of being so in the future. This is often a very dodgy argument. It can be argued that, in the right hands, ANY pub can be successful and there are plenty of examples of pubs in remote or unlikely locations which are bursting at the seams most nights. The fact that a pub isn't doing well at the moment might reflect the capability and entrepreneurship of the current/recent licensees as much as anything else. CAMRA's Public House Viability Test referred to in Section 5 will be invaluable here and objections should always include reference to it where viability has been raised as an issue.

What do they want to do?

- 2.11 This is the next big question. Both the building itself and the land it sits on will have a value and it's fair to assume that the owner wants to capitalise on that value. It's a sad fact that, especially in many rural areas, private houses fetch more money than pubs so converting from the latter to the former can be a tempting proposition. In urban areas, it's more likely to be the land than the building which is the attraction.
- 2.12 Fortunately, owners can't just do as they like. In many cases, change of use or redevelopment of a pub will need planning permission (see Section 3). The initial decision will therefore lie with the local planning authority. The owners will

have to persuade the planners that the proposed development is merited; you will have to argue that it is not.

- 2.13 One exception to the “can’t do as they like” rule is summary demolition of buildings which aren’t Listed or in Conservation Areas. Although the developer has to serve notice of demolition proposals on the local authority, in reality the Council's power to prevent the demolition is very limited. Of course, whatever goes in the pub’s place WOULD need consent. Again, therefore, it’s a matter of getting in quick to the planners, asking them to warn the owner against precipitate action.

Strategy for action

- 2.14 Planning the campaign carefully will save a lot of time and effort later. By now you should be clear who owns the pub and why they want to close it. You’ll also have a good idea how much support you can rely on within the local community. Your next steps need to be in the following areas:

Publicity

- 2.15.1 It isn’t usually difficult to interest the local media in a Save Our Pub campaign. Get press releases out containing all the pertinent facts and with a few juicy quotes. Then 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 village”, “so-and-so has been coming here 53 years – where will he go now?”, “five societies and six sports clubs use the pub as their HQ” etc.
- 2.15.2 It’s always best to be positive. Directly slagging off the current licensee is a no-no but if you do believe they are at the root of the problems then you can convey this in other ways e.g. “I can remember when this pub was really buzzing – there’s no reason why it shouldn’t be so again.” Pub companies and breweries are fair game for criticism though, especially if you feel they’ve deliberately run down the pub or starved it of investment.
- 2.15.3 Getting the initial burst of publicity will 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.

Planning

- 2.16.1 The Council planners are key players as they have to decide whether or not to approve any application for change of use of a building or an application to alter or demolish it. In most cases, planners will base their decisions on the policies contained in the relevant Development Plan or Local Development Framework. Increasingly, these Plans include policies aimed at protecting essential community facilities, including pubs. Plans will often, for instance, make clear that any applications to change the use of the only pub in a settlement will normally be resisted. (See Sections 3 and 4 for more information).

- 2.16.2 An early action will therefore be to contact the local planning department and find out
- if an application has been submitted
 - if yes, what is the closing date for objections (if no, then ask to be consulted once the application arrives)
 - what decision or recommendation are the planners likely to make
 - what are the relevant local plan policies
 - if the pub is a statutory listed building, a locally-listed building or in a Conservation Area.
- 2.16.3 Buildings that are “listed” are provided with an important extra line of defence. Should, therefore, you believe that the threatened pub has special architectural or historic merit, currently unrecognised by listing, you could discuss with the local planners its potential for emergency “spot listing”. CAMRA’s specialist Pub Heritage Group can also offer advice (contact via CAMRA central office).
- 2.16.4 Ask also if the planners are aware of the Public House Viability Test. If they claim ignorance, arrange for a copy to be sent to them and ask them to use it in their assessment of viability and to refer to it in their decision.
- 2.16.5 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 particular village. However the locals pointed out to the planners that this other establishment operated essentially as a restaurant and the threatened pub was the only true community facility. The planners were persuaded, consent was refused and the pub is trading successfully under new ownership.

The Owners

- 2.17.1 Clearly you need to talk to whoever owns the pub. You’ll want to find out 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 have tried to sell, and say they have had no offers, then you might tentatively want to enquire whether a sale to a local consortium (see later) would be entertained.
- 2.17.2 It is 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.
- 2.17.3 The Localism Act, which received Royal Assent in November 2011, includes what is optimistically called “the Community Right to Buy”. In essence this will allow communities to delay the sale of a valued pub for up to six months to enable them to raise funds to bid for it. The vendor, however, is not obliged to accept the community’s offer, hence this being described in some quarters as a “right to try”. However, the relevant part of the Act has not yet come into force. Full details will appear in this guidance once this happens.

Others

- 2.18.1 Try to get your local democratic representatives on board. You would hope and expect the local District/Borough Councillor to support your efforts (you need to bear in mind that over 90% of decisions on planning applications are delegated to Officers these days. However that does not prevent Councillors becoming involved if they wish to and, in many Councils, if a Ward Councillor raises objections to an application then it will be taken to Committee for decision). Contact your Member of Parliament also and get him/her to endorse your campaign if you can.
- 2.18.2 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?”.

Making Your Objections

- 2.19 Section 3 provides detailed guidance on responding to a planning application and the lobbying you can do in association with this. Other factors you might want to bear in mind are:
- 2.19.1 **The viability argument** - the Public House Viability Test booklet will help you marshal your comments here. Applicants will often state, as part of the viability argument, that few villagers regularly use the pub. If that is indeed the case then diplomatically give the reasons why. Should you feel that the licensee or owner has deliberately run the pub down in order to be able to make this case, then say so.

Similarly, do you feel that the pub has been inadequately or unrealistically marketed? Has it been placed with an appropriate local and/or specialist agent and offered for sale at a realistic price for a reasonable length of time?

- 2.19.2 **The community angle** – this often has considerable power with planners. Your argument is even stronger where all other facilities like shops and the local garage have already disappeared. Pubs are, by their very nature, a community asset. Use phrases like “by taking away this pub, the local community would lose its heart” or “the community would be a much poorer place if this pub was lost” or “it is a meeting place for all sections of the community” – plus any other variations on the theme you can think of. The community angle doesn’t only apply in rural areas. Urban pubs can equally be important community facilities, either for particular areas of a town or city, or for “communities within a community”.
- 2.19.3 **History/heritage** - as previously mentioned, some pub buildings will be “listed” as being of architectural or historic interest. Also CAMRA maintains “inventories” of pubs recognised as being of national or regional importance. If your pub is in one or both of these categories, make the most of this e.g. 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.

- 2.19.4 **Personal objections** - as well as the “formal” objection letter from the Action Group, encourage as many individuals as possible to submit personal objections. Avoid “identikit” objections using a standard letter; petitions are also of dubious value. If someone has taken the trouble to write their own letter in their own words then decision makers are much more likely to take notice of it.
- 2.19.5 **A Demo** - this 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. Be absolutely sure that you’re going to get a decent turn-out or don’t bother. You also need to be visual for the benefit of the media – not just placards but people dressed up and other gimmicks. Any local celebrities or worthies you can persuade to turn up will be worth their weight in gold.

“Planning permission refused”

- 2.20 As mentioned in paragraphs 3.20 – 3.27, this may well not be the end of the story. If permission is refused then the applicant has the right to go to appeal. This will be decided by a Government Inspector either by way of written submissions or through a public inquiry or hearing. Again you’ll need to marshal all your arguments and, if necessary, prepare yourself to speak at any inquiry. These are normally fairly informal affairs and not too intimidating – and the Council will be on your side of course.
- 2.21 There is also nothing to prevent the applicant 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 building for something else without permission then the planners can take enforcement action against them. It isn’t unknown for owners to close a pub, strip it out, then “sit” on the property – their hope being that by the time any application is considered they will be able to argue that the pub has been lost anyway. This is a really shabby tactic and, fortunately, most Councils are now wise to the trick and will stick to their guns vis-à-vis the Local Plan.
- 2.22 You’ll need to be especially vigilant, in these circumstances, in looking out for any attempt to establish a case for a “Lawful Development Certificate”. This will be granted by the planning authority in a variety of circumstances, including where the use of a building has been changed to use as a single dwelling house and that use has gone unenforced for at least four years. So, even if planning consent for residential use of a pub has been refused, if a person then goes ahead and uses it for that purpose anyway, and nobody objects, they can later apply for this illegal use to be legalised! Branches and others therefore need to check regularly that no such unauthorised use of the pub part of the building for residential is taking place; any evidence that this might be happening should be reported to the Council who then ought to take enforcement action (see paras 3.28 – 3.31). Attached at Appendix J is an example of a letter which could be sent to the Council in these circumstances.
- 2.23 Another possible way forward when owners keep pubs closed is compulsory purchase. Local Authorities have the power to make Compulsory Purchase

Orders (CPOs) where there is “a compelling case in the public interest” to do so – which might be, for example, that 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 required 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 their powers. Historically Councils have been reluctant to use CPO powers because of the cost implications but there's nothing to lose in trying this route if your local has been left in limbo.

Buy it yourself?

- 2.24 So, the owner of the pub has done all the right things. It's been on the open market for sale as a pub for several months and at a reasonable price but nobody apparently wants to buy. In these unfortunate circumstances there is a drastic step that a community can take – buy it themselves. CAMRA has produced a booklet – “Saving Your Local” – which contains detailed advice on how to go about this and also includes case studies of some successful examples. In Scotland communities have a Right to Buy in many cases and there are suggestions that this could be extended to England. As mentioned in 2.17.3, the Localism Act contains Community Right to Buy powers, though these have not yet been implemented and are likely to be heavily circumscribed.

Other sources of advice/guidance/funding

- 2.25 The government has appointed a Community Pubs Minister so it may be that further practical assistance will yet emerge but nothing concrete has yet materialised.

3. PLANNING APPLICATIONS

- 3.1 Town and Country Planning law is currently so complicated that most professional planners need a six volume encyclopaedia to guide them through the jumble of legislation, government advice and case law (but see 4.15). So readers should always remember two things if they are thinking of getting involved: first, it's not going to be easy; and second, why not pay an early visit to your local Council's planning office and make friends with someone there? Remember, from the receptionist to the Chief Planning Officer they will have been trained in ‘customer care’ and will want to help you. (Please note also that what follows concerns the law in England; there are some differences within the legal systems for Scotland, Wales and Northern Ireland).

What needs planning permission?

- 3.2 So, specifically with pubs in mind, what sort of things might require planning permission from your local Council? Here are some:
- Extensions such as new restaurant areas and conservatories;
 - Changes of use, from pubs to some other use, and vice versa;

- Changes to the external appearance of the building, such as new doors, windows or a roof.

3.3 Under slightly different rules but still going through the planning process are;

- New signs or advertisements;
- Alterations to listed buildings (inside or outside): this applies even if the official description of the listed building doesn't mention the feature that's being altered; (Internal alterations to non-listed buildings don't need planning consent but see para 3.37)
- Demolition of all or part of a listed building or a building in a conservation area, or demolition of other buildings if attached to or forming a dwelling.

3.4 A note of warning is appropriate. Not every sort of development listed here actually needs planning permission. There are many exceptions to the rules. Here are some:

- In some cases small advertisements can be put up without consent;
- Pubs can also change their name without consent: this includes replacing existing signs with new ones incorporating the new name;
- And (since April 2005) a pub can change into a café or restaurant, or an ordinary shop, or a betting shop or 'Financial and Professional Services' (that's things like estate agents and building societies) – but NOT a hot-food takeaway – without any need to involve the local planning department, but any changes to the shop/pub frontage will need planning permission.
- Internal alterations to an unlisted pub are outside planning control (but may fall within Building Control requirements).

Finding out about planning applications

3.5 How does the average person or CAMRA branch get to know about a planning application of any of these types, affecting pubs in their local area? These methods spring to mind:

- Rely on a '**mole**' to tell you about new proposals – a friend in the planning office, a local Councillor, an active member of a local amenity society, for example. The obvious disadvantage of this is that they might miss something.
- Examine the **local newspaper** for lists of current planning applications. The disadvantage of this is that most newspapers treat such lists as space fillers and usually miss bits out.
- Visit the planning office regularly and scrutinise the **planning registers**. This is the foolproof although time consuming method – you will search through 150 domestic porch extensions before you find anything affecting a pub – although it has its own rewards, which will be discussed in more detail below.
- Arrange for the planning department to send you a **weekly list** of newly received planning applications. There will normally be a charge for this, to cover printing and postage, and if you're a CAMRA branch, you should ensure that the list is sent to someone who understands its significance and is able to act quickly – NOT perhaps the social secretary who is also a commercial traveller and only goes home three days a month. Some

Councils may be willing to email the weekly list to you without charge: it's worth asking.

- Look regularly at your Council's **website**. If you don't know the website address, there is a comprehensive list on the Government's site www.direct.gov.uk. All Councils should have up-to-date planning information on their websites; this may even include images of the submitted plans which you will be able to view via the internet. You should be able to find an up-to-date copy of the Weekly List on the council's website.
- You may want to try writing to your local Council and asking them to notify you about any planning applications affecting pubs.

The Planning Register

- 3.6 This is kept in the Planning Department of your local Council, and these days is likely to be on a computer. It comprises a list of all planning applications in your area since 1948, including copies of the planning application documents, plans and drawings, and the formal decision notice.
- 3.7 In theory, all planning applications submitted since 1948 are open to public inspection, although you may have to give your Council some notice if you want to look at very old plans.
- 3.8 However, the most important thing about the Planning Register is that it includes current planning applications, which you can inspect and make comments on, including objections to, for instance, the loss of a pub or unsympathetic alterations.

Responding to a planning application

- 3.9 Back to the present. You've found out that a planning application has been submitted, which may drastically affect a favourite local. What to do?
- 3.10 First of all, inspect the plans. You may be able to do this through the internet if this is available in your area. However, you can also visit the local planning office and view the plans there. There is no charge for this, and the people there will be helpful. If you can't read detailed plans, then bring a friend who can, or ask for help from the planning staff. Find out exactly what is involved before jumping to conclusions. Planning applications are dealt with very quickly, so find out from the Council the very last date for making your comments. It's no use waiting to discuss the matter at a meeting on March 25th if the application is decided on March 24th.
- 3.11 Most councils have the facility on their website to enable objections to be submitted electronically. If you go to the Planning section of the council's site, there will usually be a sub-section called something like "view existing applications". You can search for the applications you're interested in using the reference number, address or just the postcode (although search systems vary widely across local authorities). When the application comes up there'll normally be a "make a comment" box for you to click on to. 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 mention the address of the property, and what is being proposed;

also include in your letter the Council's application reference number. Similarly you can always email your comments, but ensure you include all the above information. If your comments are submitted in time, they will be fully considered when the decision is made. Most applications these days are delegated to senior planning officers, but under some circumstances (for instance, a very controversial application or where a Councillor requests it) the decision may be made by a planning committee.

3.12 The more people who write, the more notice may be taken of what you say, although you should write your own individual letter and not sign photocopies of the same text. An 'official' letter on CAMRA headed paper, particularly if the comments are well- researched and carefully-worded, could be given considerable weight in the planning officer's report. Petitions are of limited value if a lot of people who have signed obviously live a long way away.

3.13 The flow-chart at Appendix A sums up the process for responding to planning applications.

Helping your cause

3.14 When making objections to a planning application it is extremely useful to quote the local plan policies (see section 4) you consider relevant to the case. If it can be shown that the proposal is clearly contrary to established planning policy, the Council should make a decision that is in line with that policy, or give a very good reason why they haven't. You can also adduce relevant sections of the National Planning Policy Framework (see paragraphs 4.15 - 4.17). You should try to address any issues gleaned from the application e.g. claims of non-viability (see section 5). Encouraging other people or organisations to write in can be very useful. For instance, the pub's regulars may be willing to give support. If the pub is of some historical or architectural value, the local Civic, Village or Historical Society should be asked to make an objection. If the pub is a real gem which is about to be desecrated, please alert CAMRA's Pub Heritage Group who will wish to become directly and actively involved in the campaigning.

3.15 The recent publication of the National Planning Policy Framework (see paragraphs 4.15 – 4.17) provides another effective means of objecting to an application, even if the council lacks local plan policies which help protect pubs. In paragraphs 4.18 – 4.20 we suggest model reasons for objections which you might like to use to take advantage of this development.

3.16 And there is no harm in lobbying the decision makers. Find the local Councillor and speak to him or her, or write or phone. Remember, you elect these people, and they have pledged themselves to work for you! A good case to argue will be one which looks at the character of the pub, its specific qualities (social or architectural) and its contributions to local life. The planning authority won't be too interested in the fact that the owners are only interested in selling Eurofizz lager, nor that the landlord's a decent bloke, nor that it's the only pub in town which serves a decent pint of Old Bladder.

3.17 If you've made a good case, you can hope that permission will not be given. Contact the planning officer first and find out if the application is being dealt with

by a planning committee. If so, you can go to the meeting and find out for yourself – these meetings are almost always held in public though you cannot normally address the meeting. However, in one or two areas the rules have been changed to allow objectors to speak, but you must find out and book yourself a slot before the meeting starts. The case officer's report to the committee should include reference to, or summarise the content of, any objections submitted. So, if yours has not been properly covered, you have grounds for complaint (see next paragraph).

- 3.18 More often though, the decision will be delegated to a senior planner. However, 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 good reason for allowing something which specifically goes against a local plan policy and material representations should be properly mentioned in the report. If permission is given but you feel the Council did something wrong in the way it went about making its decision then you should submit a formal complaint. Where the Council does not respond to your satisfaction and you have exhausted their complaints procedure then you can take your complaint to the Local Government Ombudsman (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.
- 3.19 You'll find in the appendices some documents developed by CAMRA's Planning Advisory Group which you might find helpful. At Appendices B and C are model letters to the planning authority; these can be adapted for on-line submissions. One is a holding letter which could be sent as soon as you become aware of an application; the other includes the various elements you might want to cover when objecting to a proposal which would see the loss of a pub. Appendix D is a Facts and Progress Log which could assist you to assemble the basic facts and to keep track of where you are in dealing with an application and in making sure all necessary actions are being taken. Appendix H is a "tick list" version of the Public House Viability Test. At Appendix E1 you can find a case study of a successful campaign against a planning application to convert a pub into a house.

Appeals

- 3.20 If permission is given, there is essentially nothing you can do. If it's refused, then beware, the applicant has a right of appeal, which has to be lodged within 6 months of the date of the decision notice. If this happens you have a further battle to fight. Appeals are dealt with by the Government's Planning Inspectorate and an Inspector will be appointed to deal with the case.
- 3.21 If you objected to a planning application which was refused, you should automatically be notified if the applicant appeals against the decision.
- 3.22 If the notification does not fully set out the grounds of appeal, you'll have to visit the planning office and study the notice of appeal. Note which method of appeal the appellant wants to pursue – written representations to the Planning Inspectorate, hearings or a public inquiry. Make a note of the grounds of appeal so you can address them in your subsequent letter or statement.

- 3.23 You'll need to act quickly to get your views submitted as there is a six week deadline from receipt of the appeal by the Council. Where written representations apply, you can submit a statement. Remember, though, that your original objection letter to the planning application will be read by the Inspector so, if you've nothing to add, don't bother. If viability is an issue, don't forget to submit a copy of the Public House Viability Test to the Planning Inspector with the suggestion that it be used to assess claims of non-viability.
- 3.24 Where an inquiry is to be held, the Council and appellant must exchange "pre-inquiry statements" which set out the basis of their cases. These must be submitted six weeks before the hearing. Where objectors have a comprehensive or complex case, they too can be made a party to the appeal and must also submit a statement (in the jargon, they are then a "Rule 6 Party"). You'll need to consider whether or not you want to take this on.
- 3.25 Four weeks before the inquiry, appellant, Council and, if a party, objector will exchange the full cases they intend to make – usually called "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 which you consider wrong or challengeable, either tell the Council (so they can pick it up at the inquiry) or raise it yourself at the inquiry (in practice, Inspectors generally let members of the public speak at inquiries).
- 3.26 Attached at Appendix E2 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 and then taking part in the proceedings.
- 3.27 Should you find yourselves appearing at an inquiry to present a case, there are people within CAMRA who you can call on for assistance, both in preparing your case and fielding an expert witness if required. Please contact CAMRA HQ if you want to avail yourself of their advice.

Enforcement

- 3.28 Finally, what do you do if you think something is happening at your local that does not have the necessary permission?
- 3.29 Remember the summary of what needs permission earlier in these pages. It would be very rare for a change of use to take place without a planning application being made. However, unauthorised alterations are much more common. Any 'material alterations' to the external appearance of a pub require planning permission.
- 3.30 So if you suspect something unauthorised is happening, re-visit the planning office and speak to the Enforcement Officer, who will check to see if what's going on is all above board. If it's not, the Council may be able to take some preventative action. It must be remembered however, that enforcement action won't necessarily follow: the Council may decide that it is acceptable to approve the alterations.
- 3.31 If an enforcement notice is served, the owner or occupier again has a right of appeal to the Planning Inspectorate. It may be necessary to prove that the work

has taken place. In these instances, photographic evidence could be invaluable. CAMRA branches are recommended to set up a photographic library of their best pubs, just in case. Photographs should be dated and have a note of who took them. The ideal is to have both external and internal shots. There have been cases where the existence of photos has afforded the only proof of change and has swung matters in favour of restitution. However, in an enforcement appeal hearing, the date of the photographs and who took them is evidence which would normally be given on oath.

Prohibitions on Non-Pub Use

- 3.32 Worth mentioning as an aside here is that Councils can include a condition within a planning consent 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. No consent is needed for an actual change of use from pub to restaurant but consent will be needed for significant alterations to the structure. This gives the planners the opportunity, if they wish, to insert a condition about continuing pub use.
- 3.33 Typical wording would be “Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and County 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)”.
- 3.34 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 such as this.

Demolition

- 3.35 Unless a pub is listed or is in a conservation area there is little to prevent the owner simply knocking it down if they want to redevelop the site. (see para 2.13). CAMRA is currently campaigning for a change in planning law to require full planning consent for demolition of community facilities like pubs. The developer does have to give notice of proposed demolition to the council, but within this process, the council can only consider the effects of demolition and restoration of the site.
- 3.36 Having said that, planning consent will still be needed for any development on the site and Councils need to be encouraged to stand firm when attempts like this at circumventing the planning system are made; they should only allow appropriate alternative development on the site, even if this means the site staying empty. The message to developers, otherwise, is knock it down first and sort out the planning later.
- 3.37 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 local

authorities to insist on any new development being in the same or a similar use class.

- 3.38 One method by which a Council can seek to prevent demolition is to serve something called an “Article 4 Direction”. This takes away the right to demolish without planning permission. Councils have traditionally been nervous about going down this route because if the applicant eventually succeeds, through appeal, in getting consent, the Council may be liable to pay them compensation. 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. We’re currently trying to clarify the position with the Government but, in the meantime, it’s certainly worth asking Councils to consider this strategy in appropriate circumstances. 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 and states specifically “This could include the use of Article 4 Directions to require planning permission for the demolition of local facilities”.

Internal Alterations to Non-Listed Pubs

- 3.39 As previously mentioned, these don’t need planning permission. However, if it’s intended to make any changes, an application must be made to the local Licensing Committee for an amendment to the Premises Licence. The applicant must advertise the proposed changes in the local press, advising the date by which any objections can be made. The Licensing Committee then has to consider any such objections at a hearing (unless the objection is felt to be frivolous or vexatious).
- 3.40 Objections, to be successful, must be able to demonstrate that the proposed alterations could adversely affect the control of the premises. CAMRA believes, of course, that multi-roomed pubs provide a much more civilized, and controllable, environment than open-plan, vertical drinking beer-barns so any proposals to remove walls and otherwise open out a pub should 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
- 3.41 You need therefore to keep an eye on the public notices section of your local newspaper and take appropriate action if any plans for unwanted changes to pub interiors appear there.

4. DEVELOPMENT PLANS

The Importance of the Development Plan

What follows is primarily advice and guidance for CAMRA’s own branches as the recommended actions cover all pubs rather than individual ones which are

the subject of unwanted planning applications. Nevertheless, if you are fighting a specific campaign, you may find it useful background.

- 4.1 We mentioned in para 3.15 that you can object to planning applications if they don't conform with local plan policies. But where are these policies laid down? The answer is the Council's "development plan". This sets out, for each area, the planning policies which the Council will apply when considering planning applications.
- 4.2 Many plans contain specific policies aimed at protecting pubs and other community facilities. CAMRA Branches and other individuals need firstly, therefore, to check that the plan or plans covering their area include such policies. Even if they do, you'll need to make sure that each time the plan is reviewed, the policies are retained.

Changes to the Development Plan System

- 4.3 You may have already taken these actions. However, if you have, you can't rest easy because the development plan system changed from Autumn 2004. We're currently in a period of transition from the old system to the new (though, in the interim, most of the old policies will be "saved" and therefore still apply). The Local Plans and Unitary Development Plans of yesteryear are being replaced, in England, by **Local Development Frameworks** (LDF) (please note that whilst LDFs still exist, in many authorities the terminology is already being changed. Recent plans may well have titles like "Bogtown Local Plan" rather than "Bogtown Local Development Framework"). Similar, but not identical, changes are under way in Scotland and Wales. Many Councils are now well into this process but in many cases there will still be opportunities to have an input. (And the system will be changing again quite soon with the arrival of a National Planning Policy Framework – see 4.15)
- 4.4 LDFs are different from their predecessors in two main ways:
- Whereas a Local Plan/UDP was a comprehensive document prepared and reviewed as a single plan, the LDF will comprise a number of separate documents, prepared at different times;
 - The traditional "use" type policies are no longer in favour; LDF policies are generally supposed to be more all-encompassing. (though the reality seems to be that many are still quite detailed)

- 4.5 This poses challenges. Firstly, you'll need to know what the various components of the LDF will be, and when they'll be considered, so you can participate in the consultation process. Secondly, you'll need to work out how best policies which help retain pubs and protect pub and brewery heritage can be included within the new-style plans. (See paragraph 4.13).

Getting Involved in the Development Plan Process

- 4.6 Step one is to check the current status of the plans which cover your area and what they say (or don't say) about pubs. You should be able to find the information on your Council's web pages but if not, you'll be able to view them at the Council offices or a local library. You can buy copies of published plans

(though as a local interest group, CAMRA Branches might be able to get them free or at reduced cost).

- 4.7 Councils have to produce a Local Development Scheme which sets out the timetable for review of their plans. They must also have a **Statement of Community Involvement (SCI)**; this states how the Council will consult with local people and bodies in preparing its LDF. Again, both documents should be easily available. Local groups/CAMRA Branches should ask their Council(s) to add them to list of interested parties to be formally consulted on the LDF as it progresses (a suggested form of words is in the model letter at Appendix F).
- 4.8 Once you get the chance to have your say, you need firstly to decide what you want to get across. It could be:
- the case for pubs generally e.g. that pubs should be retained because they are a focus for the community and/or that local heritage should be protected by safeguarding pubs of character for unsympathetic development; or
 - a case arising from issues particular to the Branch area e.g. continuing loss of village or suburban pubs and/or too many new town centre bars adversely affecting traditional pubs;
 - the Sustainable Communities Act establishes in statute the definition of the pub as an essential community facility thus enhancing its entitlement to appropriate protection.
- 4.9 You may have concerns about specific matters relating to particular pubs e.g. their signage or external alterations. These are better addressed through representations on relevant planning applications rather than by comments on the LDF, which need to be much more general.
- 4.10 Evidence to Support Your Case Obviously, you can argue much more strongly for your case if you can produce hard evidence to back it up. For instance, concerns about loss of village pubs should be supported by figures for recent years and narrative on the adverse effects which the closures have had on local communities.
- 4.11 Pitch Your Case at the Right Level You don't want to stray into non land-use issues nor to go off on a tangent or into superfluous detail. Things like pub company dominance, brewery takeovers or the quality of beer at threatened pubs aren't land use matters. You should try to portray yourself as authoritative on the role and heritage of pubs. This will be especially vital if you're called on to put your case in person at any public examination. When preparing your case, see if you can access a professional planner as they can greatly help in framing your case.
- 4.12 Seek the Support of Others CAMRA isn't the only organisation interested in pub retention and pub heritage. Parish Councils, local heritage groups, even some government agencies are likely to be on our side. It will be worth sharing ideas, working up joint arguments and perhaps even making a joint submission.
- 4.13 Suggest Wording for a Policy If no suitable policy is presently proposed, suggest one yourselves and explain why. If there is a draft policy, but you don't like it, state your reasons and put forward your better alternative. CAMRA's

Planning Advisory Group has analysed many existing policies and has selected the examples at Appendix G as especially good ones. You could commend one or other to your local Council, depending on what sort of area the Council covers. Such policies are best located in the **Core Strategy** which will outline the vision and overall objectives for development in the Council's area.

- 4.14 Ensure Your Involvement is Timely Needless to say, contributions to and comments on draft plans have to be made when they are formally sought. Because of how the planning system works, Councils will discount comments made at other times.

National Planning Policy Framework (NPPF)

- 4.15 This was introduced by the Government in March 2012 and reduces 1000 pages of national planning policy to just 52. Local Planning Authorities (LPAs) now have until 27 March 2013 to put in place up-to-date Local Plans which are consistent with these national policies but which can of course go into much more detail concerning local applicability.
- 4.16 After this 12 month period has expired, due weight will be given to relevant policies in existing Local Plans "according to the degree of consistency with this Framework" - in other words, NPPF policies will take precedence where there is any conflict.
- 4.17 The Framework contains several policies which are potentially very helpful to pubs - notably section 70, which states that LPAs should "guard against unnecessary loss of valued facilities where they would reduce the community's ability to meet its day-to-day needs". 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.
- 4.18 At present, many LPAs, especially urban ones, have no policies which afford this level of protection to pubs. The scale of pub losses in many towns and cities means that such LPAs now often wish that they did have such local policies so that they could more easily turn down applications to change the use of pubs to, for instance, residential. The fact that the NPPF is now a material consideration in planning decisions enables them to do this, even if they have no explicit policy of their own.
- 4.19 If, therefore, you are objecting to such 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 offends national planning policy"
- 4.20 Where your Council already has good Local Plan policies, you could say "We believe that the (name of pub) should be protected in line with not only existing local plan policies but also national policy that such community facilities should be retained."

In Conclusion

- 4.21 A final, but key point to bear in mind. Planners are often genuinely supportive of pub retention and preservation so you may well be pushing at an open door. They do, however, when preparing plans, have to balance lots of issues as well as complying with national planning guidance. They may well therefore welcome the input of an interested party, like a CAMRA Branch, so long as they take a pragmatic approach and don't expect all they want to go automatically into the plan.
- 4.22 It may, then, be helpful for one or more Branch representatives to meet with the Council planner who will be drafting the relevant bits of the LDF. By talking over the issues and explaining the Branch's perspective, a valuable dialogue can be established.

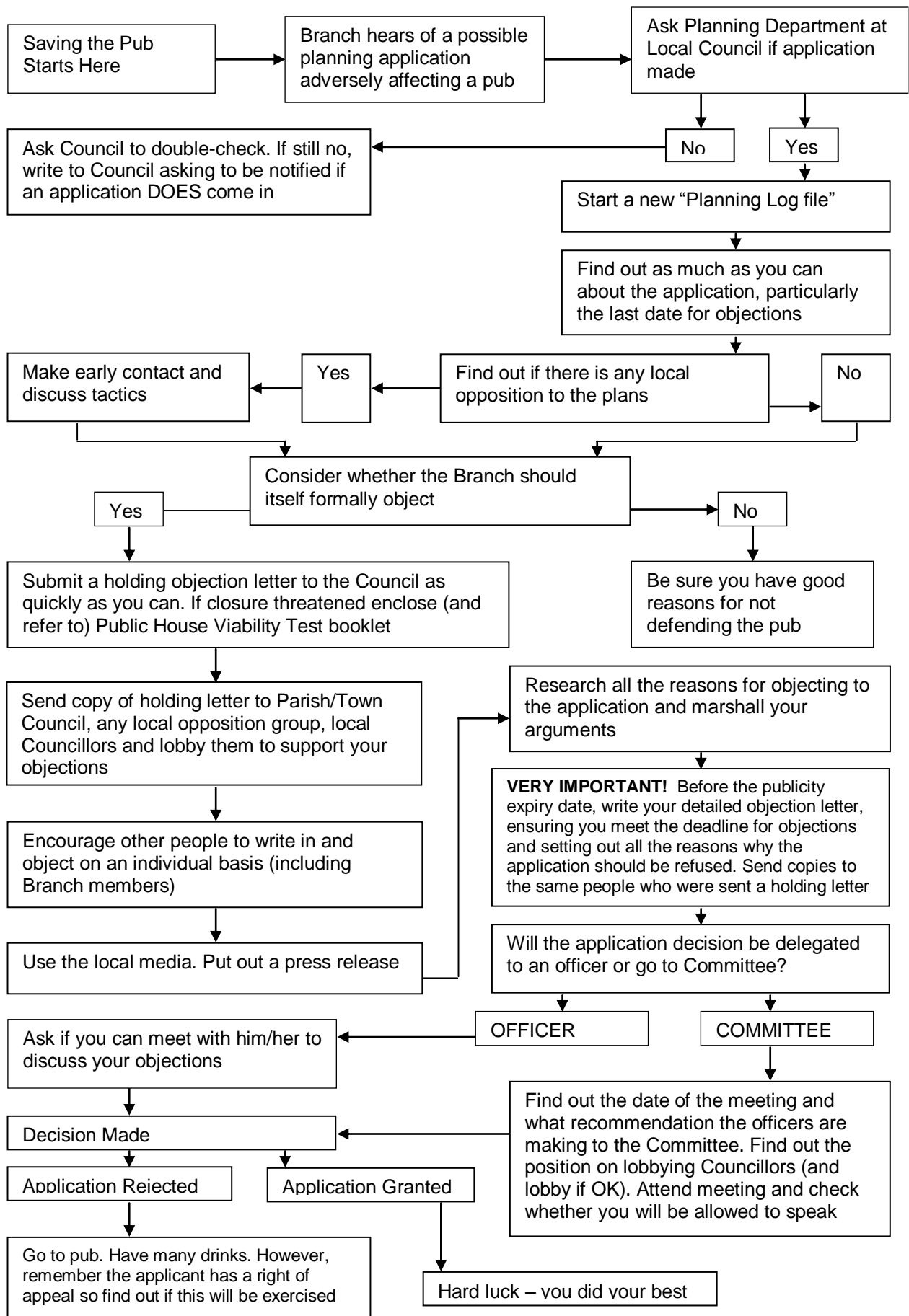
5. THE PUBLIC HOUSE VIABILITY TEST

- 5.1 The PHVT has been developed by CAMRA, in conjunction with professional planners, over a number of years. It is aimed primarily at planners themselves, giving them advice on dealing with planning applications where the owners claim the pub to be no longer commercially viable. It is also aimed at Planning Inspectors. However, CAMRA Branches and other objectors have also used the Test themselves to help build up their cases in relation to applications and appeals. It includes a series of questions that should be answered before determining whether, in the right hands, the pub could be a business proposition.
- 5.2 The PHVT is well respected in the planning field and used increasingly by local authority planners and government Inspectors. The Director of Policy and Head of Profession at the Planning Inspectorate has told us "the questions in your booklet seem to me to be 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". (You might like to use this positive quote in your covering letter to the planning authority). 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 made into a thriving concern and exhort the Council to **use** the Test in their evaluation of the application and record this in their decision. Although the PHVT has been supplied to every planning authority, it's a good idea to include with your objection submission a link to the PHVT on the CAMRA website – www.camra.org.uk/page.php?id=130. Similarly, if there is an appeal, send a link to the Planning Inspector. In both cases, if the submission is on paper, you could consider printing off a copy and including it with the submission. On a general point you could ask the Council to adopt the PHVT as Supplementary Planning Guidance.
- 5.3 Attached at Appendix H is a Checklist version of the Test which you might find helpful if you need to prepare a case against a planning application.

6. PUB SIGNS

- 6.1 A very specific element of our pubs which is increasingly in need of protection is their signs. The recent replacement by one regional brewery of many historic pictorial signs with bland corporate affairs has brought this to a head but the problem was widespread anyway. What can be done about this?
- 6.2 Firstly the legal position. If the pub is a listed building and the sign is attached to it, then Listed Building Consent is needed to replace it. Pub signs elsewhere come under the Advertisement Consent Regulations. Planning consent is always needed if the sign is illuminated. Where a sign is replaced on an existing free standing pole then should the Council consider it unsuitable they can ask for an Advertisement Consent Application; where the signage is in their view unacceptable, they could serve a "Discontinuance Notice" if it isn't taken down. Much here depends though on the policies and practices of individual Councils, particularly their enforcement sections.
- 6.3 Secondly, you can campaign. Voice your protests to the brewery/pub company/owner and encourage locals to do likewise. Put out a press release condemning the loss to local heritage. Highlight the despoilment in your newsletter. The afore mentioned brewer reversed its decisions in several instances after local protest so campaigning can certainly be effective here.

RESPONDING TO PLANNING APPLICATIONS - FLOWCHART



MODEL HOLDING LETTER

Dear Sirs

THE HOBBS ARMS, ADRIAN STREET, KEMPTON

This branch of CAMRA, the Campaign for Real Ale, is aware of a recent planning application made to yourselves concerning this property.

We strongly object to this application which, if approved, would result in the (total loss of a vital community focal point and amenity) (the loss of a community facility which, properly run, would be financially viable. Please see CAMRA's Public House Viability Test on the CAMRA website www.camra.org.uk/page.php?id=130 – in our view, the pub, if subjected to the test would be shown to be viable) (the future viability of this business being put at great risk) (destruction of features of architectural and historical significance).

CAMRA intends, as an interested party, to write to the Council with its detailed reasons for objection, trusting that these will be taken into consideration when determining the application.

Our contact on this matter is the name and address shown above.

Yours faithfully

MODEL OBJECTION LETTER – to total loss of pub

Dear Sirs

THE HOBBS ARMS, ADRIAN STREET, KEMPTON

This branch of CAMRA, the Campaign for Real Ale, is aware of a recent planning application concerning this property.

We wish to object to the proposal which, if approved, would result in the total loss of this public house.

Our reasons are as follows:

In general terms, we share the deep national concern that now exists about the loss of public houses and, indeed, about the survival of the British Pub as an institution and a social asset.

Retention of pubs allows them to continue to:

- meet the needs of differing communities by maintaining a healthy and varied choice for the consumer;
- ensure a place of informal social meeting, eating and drinking;
- provide a place of employment for the Landlord and family and in many cases full and part time staff;
- enliven the local economy through purchasing from other local outlets/shops and bringing visitors to the local area.

In particular as regards this Public House

choose and use and expand on as many bullet points as applicable

- it is the # last # pub in the # village # community # _____ #
- the only other pub in the community is of a completely different type e.g. essentially a restaurant
- the next nearest pub is # _____ miles #, there is no footpath # no street lighting
- it serves a community of _____ people
- it is situated on a tourist # cyclist route # ramblers/walkers route # _____ #
- the village is featured as a tourism growth area
- it has room to expand # has a car park # has bus passing the door #
- it could diversify as a use for # meetings # post office # shop # _____ #
- another pub in the area # _____ is very successful despite being in a less populous village
- change of use from a public house would contravene the Council's own stated policies on retention of vital community facilities (or whatever the policies say)

- (if no policy exists) change of use would be completely contrary to the national guidelines set out in PPS4 (urban or suburban pubs)/PPS7 (rural pubs)/PPS5 (listed building)
- the pub is not, in our view, being run/managed in ways which optimise its potential
- local CAMRA members have noted # not opening on ___ days # sporadic opening hours
- it is the only community facility in the village and hosts/acts as a centre for # sports and clubs
- it is used as a base for # local sports teams # community activities such as #
- it is the last community facility in the # village / area following the closure of #
- it has proved itself to be popular/successful and economically viable when run in the past by enthusiastic and committed licensees

CAMRA believes that this pub should have its viability fully and transparently tested. This can be done by using the “Public House Viability Test”, which is downloadable from CAMRA’s website www.camra.org.uk/page.php?id=130. The Test lists questions such as whether it is the last pub in the community, the levels of population and proximity of other pubs within walking/reasonable distance, whether any financial statements have been submitted if there is a claim that the pub is not making any money, and such like. The answers should provide you with an objective assessment as to whether or not, if properly run, the pub would be commercially viable.

In our view, a major consideration is whether there is clear evidence that the pub has been offered as a going concern i.e. openly advertised at a realistic price for a significant period of time by a recognised and specialist licensed property selling agent.

CAMRA is an interested party within the scope of PPG 1 and we trust that the officers and Elected Members will take our comments and submissions into consideration when determining the application. Should the application be considered by a Committee of Members, and there is an opportunity for the public to speak on the application, then we would wish to avail ourselves of that opportunity.

Our contact on this particular matter is the name and address shown above.

Yours faithfully

PUB AT RISK – FACTS AND PROGRESS LOG SHEET

Info Required

Pub Details

Name of Pub

Address (including post code)

Licensee

Freehouse / Tenanted / Leased / Managed

Owner

Owner's Address

Has the pub ever been listed in the Good Beer Guide or in other publications? If yes, which

Is the pub a Listed Building?

Brief history of the Pub

THE APPLICATION

Is the application for Change of Use or Demolition?

--

If Change of Use, to what

--

COUNCIL DETAILS – Info about The Local Planning Authority (L.P.A.)

Name of the Council

--

Planning Application Reference Number

--

Closing date for objection letters

--

Listed Building Consent application Reference Number (if applicable)

--

Name of the Planning Officer dealing with the application

--

Direct Line telephone number

--

Direct E-mail address

--

Ward Councillors:

Name of Councillor

--

Phone Number

--

E-mail Address

--

Name of Councillor

--

Phone Number

--

E-mail Address

--

Parish Council Name (if applicable)

--

Name of Parish Council Chair or Clerk

--

Phone Number

--

E-mail Address

--

TIMELINE AND ACTION

Date(s)

Who told CAMRA about the application?

Letter sent to the Council

Viewed application at planning office or online

NO FURTHER CAMRA ACTION

If CAMRA are not objecting

CAMRA ACTION starts here

If CAMRA are objecting

Objection letter sent
CAMRA "Viability" and "Saving"
documents sent with letter

Follow-up contact with Planning Officer – further info requested by CAMRA or LPA

ASK "WILL APPLICATION BE DELEGATED OR COMMITTEE DECISION?"

ASK "WILL RECOMMENDATION BE FOR APPROVAL OR REFUSAL?"

Grounds of Recommendation – not just after "the Outcome". In case of approval, it should trigger additional thinking/action

Committee venue and Date

ASK "HAVE ANY OTHER PARTIES OBJECTED TO THE PROPOSALS?"

If others are objecting – list and make contact – send them a copy of the "Saving your Local" document

--

MEDIA ACTION – PRESS + TV + RADIO – use all to good advantage

Make notes of who you contacted and what they can do for the Pub and CAMRA

--

Other Notes and dates

THE OUTCOME

Was it Approved or Refused?

--

If it was Refused, will the applicant go to appeal?

--

Grounds for Approval / Refusal

--

This form is designed to record any planning application with details that affects a pub.

FIGHTING PLANNING APPLICATIONS – A CASE STUDY

1. BACKGROUND

- 1.1 The Middleton Inn lies in Middleton, 15 miles south of Edinburgh. The village has a population of around 200 but is expanding to cater for commuters.
- 1.2 The pub closed in August 2002. This followed a period when it had become increasingly run down with irregular opening hours. It was quickly sold and the new owners put in a planning application (March 2003) for conversion to a house with a claim that the pub business was unviable (the argument being based on the trading performance of the previous licensees).

2. INTO ACTION

- 2.1 The villagers formed an action group. They raised a petition, distributed leaflets and generated press interest. They also approached the local CAMRA Branch (Edinburgh and SE Scotland) whose Pubs Officer, Jon Addinall, led their involvement.
- 2.2 Jon checked through the Local Plan for policies which supported objections to the change of use. He then drafted an objection letter to the planning application which also cited other relevant facts and precedents for refusing such applications. Branch members were encouraged to write their own letters.
- 2.3 The planners decided to defer making a decision to consider the situation. They organised a village meeting where many locals expressed the view that the pub had been deliberately run down. The planners agreed to commission a viability study and asked the village action group to do likewise.
- 2.4 Our Public House Viability Test provided the framework for the latter. A village questionnaire was circulated and the responses showed how regularly villagers would visit a well-run local pub and how much they would spend.
- 2.5 The Council's own study was not ready until June 2004. It concluded that the pub could be very successful if quality food was available (but would only be marginally viable otherwise).
- 2.6 In June 2004 the application was refused. Reasons included:
 - not proven that the pub could not be viable in the right hands
 - the pub was a potentially valuable community facility
 - conversion would be contrary to the Local Plan policy on rural development

3. BATTLE NOT OVER

- 3.1 The pub was sold again. The new owners lodged an application to turn the restaurant and kitchen into a flat, leaving just the bar area in pub use. As viability depended on food, this seemed like an attempt to establish an unviable business and thus smooth the way for a later change of use application.

3.2 The village was split given that, on the face of it, the pub would be saved. Many however feared for the long-term, so leaflets were produced explaining the threat and encouraging objections. An interesting twist at this point was that the planners recommended against submitting further objections. This was because they intended using delegated powers to refuse the application whereas if there was a high number of objections, the application would need to go before Councillors. The advice was heeded and, in March 2005, the application was rejected.

3.3 Next up came a revised application which featured a small kitchen to allow food to be served in the bar area. The village remained split so a further leaflet was distributed. CAMRA and various villagers put in objections. The application was again refused, the grounds including that the pub could not be viable with a reduced trading area.

4. HAPPY ENDING

4.1 The pub was again put up for sale and bought by a local businessman who leased it to the current licensees. They re-opened the pub in July 2006.

5. LESSONS LEARNT

5.1 Jon considers the main lessons learnt from the campaign are:

- individual objection letters (lots of them) to planning applications count much more than petitions and “standard” letters
- good media coverage is invaluable
- Local Plans can be very helpful when framing objections but make sure you’re referring to the current one
- a major concern for planners is to ensure a suitable use for a building
- proving that the pub could be a viable business was hugely important
- the village questionnaire proved most useful in assembling the viability report
- some planning officers might try for an easy life by discouraging objections but there may also be valid reasons why they do so
- local Councillors will generally lend their support if they are seen to be helping the community
- don’t give up after the first victory. Keep on top of things and be ready for another fight.

PLANNING APPEALS – A CASE STUDY

BACKGROUND

The first thing to say here is – please don't be daunted by what follows. This campaign was run with enormous energy, commitment and professionalism and represents something very close to the ideal. Should you find yourself needing to mount a similar campaign then if you do half as much as this group did, you'll have done very well indeed. Don't be put off – if you've got a case, have a go.

The Wheatley Hotel in Ben Rhydding, Yorkshire is the only pub in its community. It closed in July 2002. In February 2003, local residents set up the "Save Us Pub" (SUP) campaign with the objective of having the pub reopened.

The pub is owned by Punch Taverns. When approached by SUP in June 2003 they claimed to have been "unable to find a suitable retailer to invest with to reopen the site." SUP was not however impressed with their marketing efforts which amounted to cursory mentions on their website. There had, even so, been interest in the freehold from a local brewery and at least two potential lessees had tried to start discussions with Punch, to no avail.

The reasons for Punch's seeming uninterest soon became clear when developers submitted a planning application to convert The Wheatley to residential use and to build houses on the large car park. The application was refused by the local planning authority (City of Bradford Metropolitan District Council) and the developers put in an appeal.

PREPARING FOR THE APPEAL

SUP undertook an admirable amount of work in advance of the appeal hearing, set for January 2006.

Firstly, they examined the impact of the closure on the village. The appellants contended that Ben Rhydding is merely a suburb of Ilkley and there was no reason to retain any of the key facilities which gave it a distinctive character. SUP gathered a significant amount of evidence to refute this claim and to demonstrate that Ben Rhydding is very much a distinct and separate community. This included:

- extracts from the Council's own planning documentation
- written evidence from the local Vicar showing in detail how Ben Rhydding is its own community
- historical evidence around the growth and development of the village

Next SUP looked at the role which the pub had played in village life when it was open. In conjunction with a research team from Leeds University, they conducted a survey of local people which demonstrated clearly that residents both missed their pub and would use it if it was properly run (which hadn't been the case in recent times). SUP also contacted 16 local community groups, the majority of which said they had used The Wheatley, formally or informally, and would do so again if it reopened.

SUP then looked at the viability of The Wheatley, using CAMRA's Public House Viability Test and answering in detail all the questions it poses. This demonstrated very clearly that, in the right hands, the pub could be a thriving business as, indeed, it had been until quite recently. The completed document formed an important part of the written evidence and the local CAMRA Branch Chair provided an eloquent foreword.

A major argument of the appellants was that alternative pubs could be found not far away in Ilkley. SUP very effectively rubbished this argument with a detailed analysis of the distances involved (over a mile) and the reasons why these pubs could not be regarded as a replacement community facility.

SUP also submitted, as part of their evidence, a Sustainability Assessment (showing that a pub was a more sustainable option than residential use) and an assessment of the impact of the closure on employment, the environment and tourism.

THE APPEAL HEARING

The appeal hearing took place in January 2006. Originally planned for three days, it took four. The Council presented its case on the opening day, SUP put forward their arguments on the second along with other parties including the local Councillor and residents. The appellants started their case on the third day and completed it on the fourth when there was also a site visit).

The appellants had employed the services of a legal representative so it was as well that SUP had prepared their case so thoroughly and were able to answer some searching questions.

SUP fielded a "double act" – one person acting as Advocate and the other as the main expert witness. The Advocate introduced each of the expert witnesses and undertook the necessary friendly questioning of them. The Advocate also presented SUP's opening statement, cross-examined the appellant's witnesses and made the closing statement.

SUP called a number of other expert witnesses – the researcher from Leeds University who had helped with the resident survey, the local Vicar who spoke about the community, a representative from CAMRA and the Community Pubs Foundation, who put the appeal into the national context on pub closures and a retired senior police officer who covered the public order aspects of the situation. The witnesses were cross-examined by the appellant's legal representative but had been sufficiently well briefed to be able to rebut his criticisms and insinuations.

SUP themselves then presented their overall case and their own main expert witness was subjected to detailed questioning by the legal representative. Again, the depth of research carried out enabled SUP to deal very effectively with the barrage of questions and barbed comments.

OBSERVATIONS

This case firstly brings home the vital importance of campaigning groups carrying out thorough and detailed research both to help build up their written submission and to deal effectively with the inevitable close scrutiny of their case at the inquiry itself. SUP's efforts in this respect are an absolute textbook example of what can be done.

Secondly, campaigners need to temper their passion which drives their efforts with a cool, objective regard for the facts. Evidence must not only be compelling but be capable of withstanding detailed scrutiny. If you can't support or prove it, leave it out.

Thirdly, the appeal hearing does have the potential to be intimidating, especially if the appellants are fielding a highly-paid legal professional. However, the Inspector who conducts the appeal is there to ensure that everyone gets a fair hearing. In The Wheatley case it was noticeable that the Inspector was very aware that the SUP representatives were lay people and should not be disadvantaged in any way by the presence of trained professionals on the "other side".

Fourthly, and very obviously, in an appeal you will be on the same side as the local planning authority so you need to work closely with them to ensure that, between you, you present the strongest possible case. This is best achieved by avoiding duplication – the Council and the campaign group are able to offer different but equally important perspectives.

FINALLY

The Inspector discussed the appeal concerning the Wheatley. A key paragraph from his report reads "I conclude that the proposed would harm the sustainability of the community in terms of the provision of local facilities". All SUP's hard work was therefore very worthwhile and a potentially excellent pub was saved.

Dear Chief Planning Officer

LOCAL DEVELOPMENT FRAMEWORK – CONSULTATION

I am writing to request that the X Branch of CAMRA be included on your list of interested parties who will be formally consulted during the preparation of the Council's Local Development Framework.

As you would expect, CAMRA's chief concern is that the LDF will afford suitable protection, in planning terms, for public houses. The continuing loss of traditional pubs, both in urban and rural settings, is in our view having a very negative effect on the communities concerned. The planning system affords a potentially powerful line of defence against the efforts of some pub owners to make short-term financial gains at the expense of valuable community facilities. Our hope would be that the LDF will include policies which support the retention of community assets like pubs and resist applications for change of use unless there is very clear evidence that the facility is no longer wanted or needed.

We will obviously respond in more detail as and when draft policies are prepared and comments on them are invited. If it would be helpful for myself and colleagues to discuss these issues with the officers drafting the relevant aspects of the LDF in advance of their being published for consultation then we would of course be delighted to do this.

On a slightly separate note, we would also be interested in being consulted on individual planning applications affecting pubs. Would you let me know please if that might be possible or, alternatively, inform me of any other ways and means by which we can become aware of such applications at an early stage.

Yours sincerely

Branch Pubs Officer

MODEL PLANNING POLICIES**1. GENERAL POLICY ON COMMUNITY FACILITIES – RURAL & URBAN**

The Council supports retention of existing community facilities such as schools, post offices, public houses, shops, doctors' surgeries, branch libraries, village halls and other meeting rooms, petrol stations and garages. Before granting planning permission for a change of use or redevelopment which would result in the loss of any of these facilities, the Council will require compelling evidence that the facility is both no longer needed by the local community and is no longer commercially viable. If permission is granted for a change of use or redevelopment, preference will be given to the premises remaining in some form of community or employment use so long as this does not result in traffic, amenity, environmental or conservation problems.

2. SPECIFIC PUBS POLICY – RURAL

The Council strongly supports retaining public houses in rural areas, particularly where the availability of other community premises is limited. Public houses raise the quality of community life and the environment in rural areas and help promote thriving, inclusive and sustainable communities. Applications for change of use or redevelopment will be resisted, unless convincing evidence can be provided to show that the public house is not economically viable and is no longer required to meet the needs of the local community.

3. SPECIFIC PUBS POLICY – URBAN

The Council strongly supports retention of public houses and will oppose their conversion or redevelopment because they generally help promote a competitive environment, contribute to the liveliness and vitality of the street scene, offer services of particular local value, and, in some cases, include important historic features. Applications for change of use or redevelopment will therefore be resisted unless convincing evidence can be provided to show that the public house is not economically viable and is no longer required to meet the needs of the local community.

4. EVIDENCE FOR SPECIFIC PUB POLICIES - SUPPORTING TEXT

The following wording should be included in the supporting text to define the evidence required to show that the Council's policies have been complied with.

Viability and Marketing

- Where applications for a change of use or redevelopment of a public house are received, the Council will require evidence that:
- a comprehensive sustained marketing campaign (agreed in advance by the Council) has been undertaken, offering the public house for sale as a going concern and using an agreed realistic valuation of the premises;
- the marketing campaign has run for a period of at least twelve months before the planning application is submitted;

- if marketing has been based wholly or partly on an alternative community or employment use, there has been prior discussion with the Council on the principle of the proposal;
- the public house has been offered for sale locally, and in the region, in appropriate publications and through specialised licensed trade agents;
- the CAMRA Public House Viability Test, or a similar objective evaluation method, has been employed to assess the viability of the business and the outcomes (to be shared with the Council) have demonstrated that the public house is no longer economically viable.

Need

Where applications for a change of use or redevelopment of a public house are received, the Council will require evidence that:

- there is no significant local support for its retention;
- there are alternative licensed premises within easy walking distance of the public house;
- any such alternative premises offer similar facilities and a similar community environment to the public house which is the subject of the application.

5. OTHER POLICIES

Other planning policies which can afford protection to public houses in particular circumstances are those relating to employment and transport.

Employment Model Policy – The loss of employment premises will only be allowed if retention for appropriate employment use has been fully explored. This may be undertaken by an agreed marketing campaign or, where agreed in advance, demonstration that the premises are inherently unsuitable or not viable for all forms of employment use.

Transport Model Policy – The Council supports the retention of community facilities which are within easy distance of housing and accessible by walking or cycling.

CAMRA PUBLIC HOUSE VIABILITY TEST - CASE PREPARATION CHECKLIST

Check sheet on

Date

POPULATION DENSITY	ANSWER	FURTHER DETAILS
What is the location of the pub? (village, suburban etc)		
What is the catchment area?		
Approx. adult population within one mile radius?		
Approx. adult population within ten miles radius? (rural areas only)		
Future developments planned for the area? E.g. industrial, residential use		
Daytime working population?		
VISITOR POTENTIAL		
Is pub in well visited/popular/picturesque location on a footpath, cycle route etc?		
Does the pub appeal to those who drive out to pubs?		
Is tourism encouraged in the area?		
Is or has pub been in tourist guide?		
Does pub act as focus for community activities? (sports, social, societies etc)		
COMPETITION		
In rural areas, how many pubs within one mile radius? Five mile radius?		
In urban areas, how many pubs within immediate vicinity?		

FLEXIBILITY OF THE SITE	ANSWER	FURTHER DETAILS
What is customer profile? Does it differ from other local pubs?		
Are there unused rooms or outbuildings that could be better used?		
Could pub be extended?		
Have any planning applications been made to further develop the site? Results?		
Additional adjacent land for use – e.g. camp site?		
Is the pub well maintained?		
PARKING		
Is there on-site car parking? Enough? Scope for expansion?		
PUBLIC TRANSPORT		
Bus stop near?		
Train near?		
Frequent and reliable public transport?		
Taxi – local and special terms?		
MULTIPLE USE		
What does the village have as community facilities?		
Could the pub provide an area for another village function? Shop? Post office? Accommodation?		

COMPETITION CASE STUDIES	ANSWER	FURTHER DETAILS
Are there successful pubs in the neighbouring area of similar population?		
Why are they successful?		
THE BUSINESS AT PRESENT		
Is the business run by owner/tenant/manager?		
Does pub management have local support?		
Is the business being well run?		
Has the pub been well supported in the past? – Is there evidence to show this?		
Has the pub been “themed” or changed style recently?		
Is the pub operating optimum opening hours?		
Is there more food potential? Is it maximised?		
Could food be a saviour?		
Is pub owner’s rent/repair policy undermining viability?		
Are there any grants/relief/etc not claimed or over charged? e.g. Rates		
SALE		
Where and when and for how long was the pub advertised for sale?		
Offered as going concern?		
Sale price – reasonable/ market valued/licensed house valuer?		

Was the pub offered for sale for a minimum of 12 months?		
What offers/how many?		
Has pub been closed for any length of time?		
Does sale price reflect its recent trading?		

Additional Notes

Dear Sir

PLANNING STATUS OF THE CLIFFE ARMS PUBLIC HOUSE, MATHON

I am writing on behalf of the X Branch of CAMRA (the Campaign for Real Ale) concerning the Cliffe Arms at Mathon. You are probably already aware that this pub is currently closed, and unlicensed for the sale of alcohol. The present owner has now gone on record to state that he has no plans to re-open the pub in the current year. This is obviously very frustrating for those who wish to see the pub open and trading once more, and we are still left wondering what the owner's plans for the pub may ultimately involve.

The Cliffe Arms has now been closed continuously since X. We do not expect a planning application to be made in the near future for the conversion of the Cliffe Arms into a private dwelling; however, we will object if and when that situation arises. In the interim, we wish to confirm with you the precise status (and usage) of the public rooms at the pub. We understand that the public rooms and bars (designated Class 'A4') cannot be used for activities other than in the pursuance of the business of the pub. Further, even if the pub is closed and unlicensed, we believe that these areas are still not to be used for non-commercial activities – without the owner having first sought and received 'change of use' planning permission from your authority. We now wish to be assured that your authority is fully satisfied that there is no irregular occupation (or confusion on behalf of the owner), such that he is using the rooms for non-A4 purposes – or claims such retrospectively, when in the future applying for a 'change of use' permission. We want especially to avoid the scenario where in the future the owner may apply for a 'certificate of lawful use' after a period of non-'A4' use of any of the public areas. We would welcome any assurance you can provide us with regarding the planning authority's understanding as to the current status and actual use of the public rooms at the Cliffe Arms.

I hope you can appreciate our concerns, and the reasoning behind our enquiry. We have absolutely no idea what is going on at the pub. The owner's plans are completely unknown to us. Therefore, we see it as vital to avoid any uncertainty as to the pub's planning status for when any planning application might be forthcoming.

I look forward to hearing from you in due course. Thank you for your time and consideration.

Yours faithfully

PLANNING POLICY STATEMENTS

National government guidance on planning in town centres and rural areas can be found in the Planning Policy Statements (PPSs) which replaced Planning Policy Guidance notes (PPGs) in recent years.

PPS4 (Planning for Sustainable Economic Growth) applies both to urban and rural areas. Three policies within the Guidance are particularly relevant to pubs:

- Policy EC4.1 urges planning authorities to plan proactively to promote competitive town centre environments and provide consumer choice by supporting a range of services, with pubs specifically mentioned amongst these;
- Policy EC6.2 calls on planners in rural areas to “seek to remedy any identified deficiencies in local shopping and other facilities to serve people’s day-to-day needs and help address social exclusion;
- Policy EC13.1 states that when assessing planning applications in local centres and villages which affect various facilities, including pubs, planners should:
 - take into account the importance of the facility to the local community or the economic base of the area “if the proposal would result in its loss or change of use”
 - refuse planning applications which fail to protect existing facilities which provide for the local community

PPS7 (Sustainable Development in Rural Areas) has the objective of raising the quality of life and the environment in rural areas through the promotion of thriving, inclusive and sustainable rural communities.

- Paragraph 7 exhorts planning authorities to adopt a positive approach to proposals designed to improve the viability, accessibility or community value of existing services and facilities such as rural public houses. Planning authorities should support the retention of these local facilities and should set out in Local Development Documents the criteria they will apply in considering planning applications that will result in the loss of such important village services (e.g. as a result of conversion to residential use)

PPG13 (Transport) aims to integrate planning and transport at all levels to, inter alia, promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car. Closure of pubs can therefore work against these aims

- Paragraph 6 advises authorities, when considering planning applications, to seek to ensure location of day-to-day facilities in local centres so they are accessible by walking or cycling. Also development comprising leisure and services should offer a reasonable choice of access by public transport, walking and cycling.
- Paragraph 75 exhorts authorities to promote and protect local day-to-day shops and services that are within easy walking distance of housing when determining planning applications.