

Pub protection in the planning system

Who hasn't drunk in the Wenlock Arms? An iconic pub for over 30 years; regulars, CAMRA visitors, occasional visitors and jazz. You would think it would be there forever! The local planning authority, Hackney, had refused permission for redevelopment of the site but had no control over demolition – it was not in a conservation area. Within 5 days of the expiry of a technical notice (prior approval) for demolition, Hackney implemented a Conservation Area without consultation! What does the Wenlock teach us? – there was no beer garden or car park to develop.

1. Even the most thriving pub in a back street is worth more as flats than as a business!
2. Very few London pubs can be secure from predatory development.
3. Only ownership and possibly the planning system can save them.

I have been asked to talk about pub protection in planning.

First, in praise of planning, the 1947 Town and Country Planning Act nationalized development. We take it for granted now that without planning control landowners could do what they like, but the Tories are undermining planning. (Yes, I am a Labour councillor.)

Second, the landowner has lots of rights. Within a 'plan-led system', there is a presumption in favour of development. To sustain a refusal, there must be bona fide planning considerations that indicate a good reason to refuse – a reason that would satisfy an inspector in the event of an appeal. So pubs can be developed unless there are policies that protect the 'use'.

A word about **policies**: these are not trump cards. Common law accepts reasonableness and balance. And as for **use**, class 'A4' drinking establishments (public houses and wine bars) can be converted to any of A3 (restaurants), A2 (professional/financial offices, currently including betting shops) and A1 (shops) within permitted development rights! So Hackney lost badly in the case of the British Lion when conversion to a Tesco's was upheld on appeal. Any policy has to be balanced against a whole raft of other policies. Again, the former Charles Wells pub, the Railway Tavern, is now a betting shop.

Since last year, 'A' class uses can now also be converted to B1 business use for a single two year period of up to two years without requiring planning permission.

Article 4 Directions to remove permitted development rights are not easy to implement and possibly expensive: not a silver bullet. But in their absence pubs outside conservation areas can be demolished with almost no control and – CAMRA take note! – this will be what happens in the future as pub protection policies proliferate.

Pubs can be demolished in a conservation area if a good replacement is planned, with pub use retained. Local listing will not protect pub use – that is a loophole. National listing will be more effective.

The National Policy Planning Framework (NPPF) is helpful in encouraging councils to frame pub protection policies. So is the London Plan. Local councillors want to save pubs. We think that Hackney's Development Management (DM) policy on pub protection is strong, though yet to be adopted. It was used in the Prince Edward decision. The applicant for residential redevelopment failed to show that the pub was no longer viable in its current use or a similar one for which there was a need. No evidence was provided of marketing, another criterion which CAMRA had stressed.

For some pubs, Registration of an Asset of Community Value (ACV) may be helpful, giving the local community a right to make a bid when a disused pub is put on sale and providing a material planning consideration when permission is sought for residential redevelopment, but permitted development rights are unaffected.

In the planning battle, my advice is

1. Engage early on. People should be able to meet the case officers. If not, contact your local councillors. 90% of the process happens before the committee meets. The 21 day notice period is important. Aim to get in objections. Too many objectors think turning up on committee night and citing a policy they think makes the case is enough – it is not.
2. Get the public campaign started early – don't just plan to turn up at committee night
3. Don't throw the kitchen sink at it. Pick your objections carefully and make them early. If an objection is dealt with by the process, accept that. Focus on the pub protection policies. In the absence of local policies, invoke the London Plan or national policies. Focus on the issues that matter.

Vincent Stops

Chair of Hackney Planning Subcommittee

Points raised in discussion

Petitions may raise public awareness of threats to pubs but are of no value in opposing planning applications; they will tend to count as one objection. Objectors need to make their case separately. CAMRA can help show them how to do so.

Local amenity societies might be divided in their attitudes to pubs, some activists concerned with preserving the exterior appearance of a pub but not with protecting its use.

Dominic Pinto (W London) emphasised the relevance to planning objections of evidence on the economic impact of a pub as a business, giving employment and bringing income into the local community. The IPPR report, 'Pubs and places', independent research which CAMRA had commissioned, had demonstrated this and was a useful resource on which to draw.

John Cryne (N London) remarked that the existence of a Tree Preservation Order had been an important factor in saving the Duke of Hamilton in Hampstead from proposed redevelopment.

Ian McLaren (N London) was leading the campaign to save the popular Antwerp Arms in Tottenham, registered as an ACV 2 days after its sale by Enterprise Inns last October and now on sale again. A first community bid sent on the last day of the statutory six month period had been rejected by return email. The pub was locally listed and within a conservation area but Haringay had no pub protection policy and the owners had submitted a planning application for residential conversion. The offer of shares had now been extended to 5 June. Visit www.antwerparms.co.uk

Summaries of 'speed dating' presentations

Publicity and influencing decision makers

Don't try to do it all on your own. Use the guidance on the CAMRA website. Steal others' ideas. Think outside the box (cf those White Bears).

Form groups; select spokespeople; contact CAMRA for ideas; use social media; engage celebrities.

Policy: national; regional; local

Aim to get commitment from members and officers to implementation of policies. People must *want* to have a pub protection policy. They may alas choose not to for religious/moral reasons.

Government's policy direction is towards deregulation and so any tightening of control of change of use for pubs can only result from constituency pressure. CAMRA needs to create that constituency.

Using the Sustainable Communities Act

Ensure that communities are included in discussions. The Act could help deliver a political result. Some Councils have adopted supportive resolutions. Contact them.

The General Permitted Development Order; use of Article 4 Directions

CAMRA has limited volunteer resources; direct them to campaigns there is a chance of winning. Use classes reflect judgements of relative amenity and nuisance, pubs being traditionally categorised more by the latter.

After temporary B1 business office use for up to two years since the 2013 changes, what becomes of what was previously a pub? The lawful A4 use remains extant; thanks to Eric Pickles, there is no 'daisy chain' effect but in practice the immediate consequence of B1 conversion will be that a pub's bar, pipework and stillage will be ripped out.

Article 4 Directions are no panacea. CAMRA policy remains firmly that pubs should be *sui generis*. Meanwhile know what the rules are, how they are applied and use all available correctly. Convince the officers in the first instance. Examples can be provided of very good objections. Cite precedents, especially of decisions upheld at Planning Inspector level.

The Localism Act

Remember three aspects of ACV registration:

- community right to bid;
- material planning consideration;
- compulsory purchase possibility

A CAMRA London Pub Protection Strategy

The Regional Director's strategic objective was to bring the demolition or any change of use of a pub within planning controls. Planning applications would mean community consultation. In a majority of cases, development might be welcomed and approved, but some historic pubs would be saved that would otherwise be demolished or converted to other uses if existing permitted development rights remained.

A new forum was required at London CAMRA regional level for those acting as Branch Pub Protection Officers to support each other in high profile pub campaigns, spread best practice in supporting their local planning officers and councillors in implementing appropriate pub protection policies and maintain collective political pressure to close the permitted development loopholes in the current planning framework. This role was separate from and additional to the architectural pub heritage preservation and promotion remit of the London Pubs Group

The London CAMRA website should document and publicise evolving pub protection strategy and active pub campaigns.

Final observations

Mick Lewis (E London & City) recognized that one of the problems that CAMRA has to get round is the current housing shortage, even if it is only a perception, because, especially in somewhere like London, that is what will be thrown back at us. How should we deal with this? He feared that, if pubs were put into a separate category, as well as making it harder to change them into something else, it might also make it harder to open new ones.

The only reason we got the beer duty escalator stopped was because we had the trade pulling in the same direction. He did not think this would happen with getting planning legislation changed. Breweries and pub companies would not want restrictions on what they can do with their own pubs. So we had to realise that we are fighting this on our own, and have to address this as a major problem.

Yes, we shouldn't stop fighting at a local level, but he felt that we are pissing in the wind until planning legislation is changed, and that should be CAMRA's main focus. With an election next year, that, in his experience, is when you get MPs to respond to questions, and even do something about it. Too far away at the moment, but early next year (assuming the election will be in the spring) would be the right time.

On the basis that this Government will not be doing anything about planning laws, perhaps the following could be done, and this could also be rolled out on a national basis. As soon as we knew the Tory and Labour candidates across the country (Mick was deliberately ignoring Lib Dems, for obvious reasons), someone from each Branch should be writing/emailing them, saying that they are concerned about the number of pub closures in their area, and asking for their views on both pub closures and current planning laws and what they would do about it if they are elected? After the election, we would have a list of names that we could then pursue based on their answers, including naming and shaming them if they had promised something and then done nothing.

Mick suggested that CAMRA tended to be far too polite nowadays when it came to major issues.