

PUBLIC HOUSE VIABILITY TEST



1. Overview

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

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

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

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

2. Introduction

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

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

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

Why is viability such an issue?

The British public house, one of our greatest institutions, is under threat as never before. An estimated 29 pubs permanently close every week and this rate shows no sign of slowing. Nor is this just a rural problem; our towns and cities are also losing pubs on a massive scale, especially away from the town

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centre drinking circuits (where a rash of new bars hardly makes up for the loss of traditional community pubs elsewhere).

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

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

3. Case studies

Case One - Shropshire

The owners of a Shropshire freehouse wanted to convert it to a dwelling, claiming it was no longer a viable business. The Council refused their application because they considered it to be a valuable community asset (it being the only pub in the village); they also felt that the owners had not taken on board the possibilities for diversification (e.g. upgrading the food offer, adding B&B, using space for a village shop or post office). At appeal, the Inspector noted that the small immediate population and lack of public transport were negative factors in terms of viability. However, the pub did have potential for extension and for capitalising on its position in a tourist area. He found that the pub was indeed a valued local facility and that it had not been clearly demonstrated that it could not become a viable business in the future. Its loss would therefore conflict with local and national policies on the retention of community facilities. (ref APP/L3245/A/13/2192177)

Case Two - Westminster

In a residential area of Westminster, London, the owner of a small, currently closed pub wished to convert it into a house and submitted evidence as to its non-viability. Council policy was to accept losses of pubs only if they had been marketed without success for at least 18 months, this being considered a good measure of the pub's viability prospects. In this case, marketing had been for a much shorter period and the particulars had indicated potential for non-A4 use. No trading accounts were available for the period leading up to closure though estimated viability calculations had been provided. The pub had been nominated as an ACV.

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The Inspector concluded that the viability or otherwise of the pub remained an open question and, more particularly, the lack of viability had not been adequately demonstrated for the purposes of the Council's policy. Further, in terms of the NPPF, he was not satisfied that the loss of a facility clearly valued by the community could be regarded as 'necessary'. He noted the significant number of other pubs in the surrounding area but each had a different character and function – spatial proximity was not of itself a necessarily reliable guide to the value placed on pubs by local communities or of the particular contribution to local areas. (ref APP/X5990/A/14/2215985)

Case Three - Norfolk

The pub was one of three in a small Norfolk market town; the application had been for residential conversion. Local planning policy was to refuse such development unless there was an alternative pub nearby and the premises had been marketed for a reasonable period with no reasonable offers received, thus demonstrating the business to be no longer viable. On the first criterion, the Inspector observed that another pub was 600 metres away but served a different catchment and type of customer because of its location and character. The appellants contended that, despite the owning pub company reducing the rent, trade had declined annually for five years. However, accounts had not been submitted for consideration, nor had any evidence been produced on efforts to attract trade. Although the property had been up for sale for three years, it was unclear how the asking price had been calculated. The Inspector felt that the lack of interest in operating the pub as a going concern did not sufficiently show that the business itself was not viable in the short, medium or long-term. Nor did the information presented demonstrate that no licensee could reasonably be expected to make a living from the enterprise. The proposed development would be inconsistent with both local and national policies on the conversion of pubs. (ref. APP/K2610/A/13/2196244)

4. Conclusions

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

The Public House Viability Test, which follows, shares that view. It is intended to help all concerned in such cases – local authorities, public house owners, public house users and, indeed, Planning Inspectors, to subject arguments

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made about viability to rigorous scrutiny and testing against a set of well-accepted yardsticks.

The Viability Test does not seek to protect the continued existence of each and every pub in the land. Times and circumstances do change and some pubs will find themselves struggling to continue as a going concern. However, any arguments put forward to that effect must be exposed to reasonable analysis so that they may be properly understood and, where appropriate, assessed and questioned by those concerned.

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

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

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

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

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

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

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The Public House Viability Test

When assessing the continuing viability of a pub business when a change of use is applied for the question that needs to be addressed is: *“What could this business achieve given a management dedicated to it, and with full discretion over stocking policy and type of operation?”*

Assessing Trade Potential

1. Local trade

- ✓ What is the location of the pub? Is it in a village, suburban area, town centre or an isolated countryside?
- ✓ What is the catchment area of the pub?
- ✓ How many adults live within a one mile radius?
- ✓ In rural areas, how many adults live within a ten mile radius?
- ✓ Are there any developments planned for the area? Industrial, residential, strategic projects?
- ✓ Is there a daytime working population?

2. Visitor potential

- ✓ Is the pub in a well visited/popular location? Is it in a picturesque town or village, on a canal/river side, on a long distance footpath, or on a cycle route?
- ✓ Does the pub appeal to those who regularly drive out to pubs?
- ✓ Is tourism encouraged in the area?
- ✓ Has the pub ever been included in any visitor or tourist guide?
- ✓ Does the pub act as a focus for community activities? Sports teams, social groups, local societies, community meetings etc?

3. Competition

- ✓ In rural areas, how many pubs are there within a one mile radius and within a five mile radius?
- ✓ In urban areas, how many pubs are there within reasonable walking distance?
- ✓ Bearing in mind that people like to have choices, does the pub, by its character, location, design, potentially cater for different groups of people from those of its nearest competitor(s)?
- ✓ If no, could the pub be developed to cater for different groups?

4. Flexibility of the site

- ✓ Does the pub/site have unused rooms or outbuildings that could be brought into use? Function rooms, store rooms etc.
- ✓ Is the site large enough to allow for building extensions?

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- ✓ Have planning applications ever been submitted to extend/develop the pub building? If yes, when and what was the outcome?
- ✓ If planning consent was not available for building work, is any adjoining land suitable for any other use? Camping facility etc.
- ✓ Has the pub been well maintained?

5. Parking

- ✓ Is there access to appropriate numbers of car parking spaces?
- ✓ If no, is there any scope for expansion?

6. Public Transport

- ✓ Is there a bus stop outside or near the pub and/or a rail station within easy walking distance?
- ✓ How frequent is public transport in the area?
- ✓ How reliable is the public transport in the area?
- ✓ Has the pub made actual/potential customers aware of any public transport services available to/from it?
- ✓ Are there taxi firms in the locality?
- ✓ Has the pub entered any favourable agreements with a local taxi firm?

7. Multiple Use

- ✓ In light of government guidance through the National Planning Policy Framework (see the Appendix) what is the extent of community facilities in the local area – is there a shop, post office, community centre etc?
- ✓ If the pub is the sole remaining facility within the area, is there scope for the pub to combine its function with that of a shop, post office or other community use, bed & breakfast or self-catering – especially in tourist areas?

8. Partial loss

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

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

Competition case studies

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- ✓ Are there any successful pubs in neighbouring areas of similar population density?
- ✓ What factors are contributing to their success?

The business – past and present

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

- ✓ Is the business run by a tenant or a manager?
- ✓ Does the pub management have local support?
- ✓ Has the pub been managed well in the past? Is there any evidence to support this? Are trading figures available for the last four years and/or from previous management regimes?
- ✓ Have there been recent efforts to ensure viability? e.g. has the pub opened regularly and at convenient hours?
- ✓ Has the focus/theme of the pub changed recently?
- ✓ Is the pub taking advantage of the income opportunities offered by serving food? How many times a day is food served? How many times a week? Are catering facilities being optimised?
- ✓ Has the rent/repair policy of the owner undermined the viability of the pub?
- ✓ Are there any non-standard circumstances relating to local authority business/rates/taxes?
- ✓ Are there any possible unclaimed reliefs? e.g. where rate abatement is not granted automatically but has to be claimed.

The sale

- ✓ Where and how often has the pub been advertised for sale? Has it been advertised for at least 12 months? In particular, has the sale been placed with specialist licensed trade and/or local agents?
- ✓ Has the pub been offered for sale as a going concern?
- ✓ Has the pub been offered at a realistic competitive price? (Information to enable this to be analysed can be obtained from The Publican and Morning Advertiser newspapers and from Fleurets, specialist Chartered Surveyors)
- ✓ If yes, how many offers have been received?
- ✓ Have any valuations been carried out?
- ✓ Has the pub been closed for any length of time?
- ✓ Does the sale price of the pub, as a business, reflect its recent trading?

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Appendix

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

NPPF Paragraph 70 is especially relevant to planning applications which concern pubs. It requires LPAs to “plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, **public houses** and places of worship) and other local services to enhance the sustainability of communities and residential environments.” It goes on that LPAs must “guard against unnecessary loss of valued facilities where this would reduce the community's ability to meet its day-to-day needs” and “ensure that established facilities and services...are retained for the benefit of the community”. Note that this policy applies to pubs in all communities, not just rural ones.

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

Paragraph 28 promotes “the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, **public houses** and places of worship”

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

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