

Planning Policy

Technical Advice Notes

Technical Advice Note 4:

Community Public Houses

Technical advice to assist decision makers and applicants
in applying 'saved' Policy RC.18 of the Oxford Local Plan 2001-2016



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1. INTRODUCTION

- 1.1 There have been a number of public houses in Oxford that have recently been either converted or demolished and these sites redeveloped for other uses, such as residential development or neighbourhood food stores. Public houses have faced a range of challenges which include greater competition from supermarkets, customer lifestyle changes, the recent recession, alcohol pricing and a smoking ban in public places. These factors have all contributed to their relative decline together with changes in national legislation that now allow a public house to change its use to a restaurant without requiring planning permission.
- 1.2 The future of public houses is therefore under considerable threat indeed in March 2014 CAMRA reported that there are 28 pub closures every week in the UK, which amounts to some 1,300 a year. Public houses face a competitive market for the brewery companies, where some companies are assessing their stock and placing the poorer performing public houses on the market, which often attracting interest from developers seeking alternative uses.
- 1.3 In Oxford this situation is made significantly worse by the high land and property values, given the scarcity of land for development and the demands from competing land uses. These high land values that can be achieved drive the redevelopment potential of sites for other uses, particularly residential, but more recently from the main food retailers looking to gain brand representation at the smaller local / neighbourhood level.
- 1.4 The purpose of this advice is to recognise the important social and economic role that public houses fulfil within the City and how this makes a positive contribution to maintaining and developing sustainable communities. The present policy framework for the consideration of planning applications is set out in Policy RC18 in the Oxford Local Plan 2001-2016, which is a 'saved policy' in the Development Plan. This comprises a criteria based policy that seeks to provide some protection to existing public houses and to prevent their loss, which is set out in Appendix 1.
- 1.5 This Community Public Houses Technical Advice Note (CPHTAN) aims to provide further information and advice to assist developers, the local community and decision makers when applying Policy RC18 and in particular how the three criteria would be applied. The note then goes on to summarise the compliance of the adopted policy with national guidance and the relevance of the designation of public houses as Heritage Assets and Assets of Community Value in supporting the role of public houses in the local community.
- 1.6 The CPHTAN will be subject to update, when required in the light of experience and changing best practice.

2. POLICY CONTEXT

- 2.1 **National:** The National Planning Policy Framework (NPPF) was published on the 27th March 2012 and is a 'material consideration in planning decisions'(Para 2). The NPPF states that there are three dimensions to sustainable development, economic, social and environmental. The economic role is about 'contributing to building a strong, responsive

and competitive economy'. The social role is concerned with 'supporting strong, vibrant and healthy communities'. The environmental role is about 'protecting and enlarging our built and historic environment, including moving to a low-carbon economy'. To achieve sustainable development 'economic, social and environmental gains should be sought jointly and simultaneously through the planning system.'

- 2.2** The public houses in Oxford do genuinely fulfil an important economic role within the city being a key part of the service sector. A recent report by the IPPR¹ calculated that beyond the immediate economic turnover they produce, pubs typically add £80,000 to local economies every year. They make a significant contribution to the city's economy, which provide valued facilities for those who live and work and in the City together with the needs of the tourism sector that attracts some 9 million visitors a year; and some 30,000 students from the two Universities alone.
- 2.3** Oxford has a number of distinct communities with their own individual character. Public houses provide a social focus for people to meet, network and relax and make a significant contribution towards the strength and vibrancy of Oxford's communities. Research undertaken by consultants (Scott Wilson) on a Green Space Study for Oxford served to define the local areas within the City, which was later built upon by the Balance of Dwellings SPD² to produce Neighbourhood Areas, Appendix 2.
- 2.4** Oxford has a number of public houses that are either Listed Buildings; lie within a Conservation Area or have some potential as valued Heritage Assets. Their environmental contribution is therefore significant and should be recognised as worthy of protection as part of the City's historic built environment. Public houses have an important role to play in achieving sustainable development.
- 2.5** In relation to the heritage importance of public houses NPPF paragraph 130 specifically states that "where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision". This would apply specifically to locally or nationally Listed Buildings or buildings within a Conservation Area.
- 2.5** Public houses are recognised in the NPPF as contributing to economic development, social inclusion and providing community facilities and services. Paragraph 70 in particular requires planning policies and decisions to take into account the following key factors:
- *'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;*
 - *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
 - *ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the*

¹ Muir, R (2012) Pubs and Places: The Social Value of Community Pubs London: IPPR

² Balance of Dwellings SPD: Oxford City Council (21st Jan 2008)

- community; and*
- *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services’.*
- 2.6** It is therefore clear that the advice in the NPPF seeks to encourage Local Planning Authorities to ‘plan positively’ for community facilities including public houses; guard against the loss of valued facilities and services; and allow for their modernisation.
- 2.7 Local:** Policy RC.18 in the Oxford Local Plan 2001-2016 is a ‘saved policy’ in the Local Development Plan which seeks to prevent the loss of public houses within the City. This policy recognises in the supporting text that public houses have two distinct roles, both as important community facilities and as part of Oxford’s historic legacy. The policy requires an assessment to be made of proposals involving the loss of public houses according to three criteria that comprise: marketing; evidence of non-viability; and a demonstration that suitable alternative public houses already exist in the area.
- 2.8** This policy was adopted prior to the publication of the NPPF, however for the reasons already outlined in this Technical Note it is considered to be fully compliant with national advice. Policy RC.18 is flexible and responsive to economic changes but requires a robust assessment of at least one of the stated criteria to justify a proposed change of use that would result in the loss of a public house. In accordance with NPPF advice the policy recognises the importance of public houses in providing a community facility and service and the value these buildings as part of the City’s historic legacy, acknowledging their existing or potential role as a Heritage Asset. The policy does not prevent the modernisation of public houses, although any such works would need to comply with the City Council’s heritage and design policies.

3. ASSESSMENT OF PROPOSALS USING POLICY RC.18 CRITERIA

- 3.1** In order to help implement Policy RC.18 in a consistent way, advice is provided below on each of the criteria stated in the policy. This explains in more detail the nature of the information required to demonstrate a case for the loss of an existing public house.
- 3.2 Marketing:** A property should be marketed for its existing use as a public house for a minimum period of at least 12 months. The applicant should then submit a supporting statement to accompany a planning application for a change of use of a building from a public house. It should contain evidence to confirm the length of time the property has been marketed for; details of the agent used; information to show where this marketing has taken place for example in the local press, through signs on site, on the internet and/or in journals or publications used by the trade. The statement needs to confirm the price the property was advertised for to show that it has been pitched at a ‘reasonable’ rate to generate interest from potential operators. Finally there needs to be a summary of the interest received and the reasons why offers have not been accepted.

- 3.3 **Non-Viability:** Evidence should be provided to show how the public house has operated in the past and the reasons for its lack of success. The existing 'business model' should be explored in detail with financial details to show its profit and loss over recent years. The market potential of the public house should be considered to see whether changes could be made to the operation and management of the public house to make it more successful. This should include an assessment of the type of public house and the catchment area of the customers it serves. For example it should consider the number of adults within a reasonable walking distance; it would also be worth exploring the visitor potential to show how the customer base could be increased. This could also take into account other potential improvements to the 'model' such as for example improving the food offer; using outside areas more effectively including garden areas and or parking provision; and using the upper floors for residential / short-stay accommodation. The property should be assessed to see how accessible it is for customers arriving by public transport, walking, cycling and by car.
- 3.4 **Alternative public houses:** At the outset the type of public house should be assessed to fully understand the market it is aiming at and therefore the potential competition provided by other public houses in the local area. The supporting statement should show the catchment population for the public house based on customers arriving by a range of means of transport including public transport, walking, cycling and by car. The catchment areas should therefore reflect these different modes of transport. Although Oxford is predominantly an urban area it is important to show how many pubs there are within a reasonable walking distance (800m). This would be important in fully understanding the role of the pub as a community facility within the local neighbourhood area, and the contribution it makes. It would also be necessary to understand how the competition differs, so of the range of pubs in the local area whether the alternative facilities are directly similar to the offer being provided by the public house in question. If the other pubs in the area are not directly similar, then this criterion of Policy RC.18 is unlikely to be satisfied.

4. OTHER CONSIDERATIONS

- 4.1 There are a range of other considerations that could potentially provide some protection to Community Public Houses, which include the following:
- 4.2 **Heritage Assets:** There are many locally valued heritage assets which may not meet the criteria for national designation. The City Council has a register of local value Heritage Assets, which can be viewed and further assets 'nominated' on the City Council's website www.oxford.gov.uk/PageRender/decP/HeritageAssetRegister.htm. Pilot studies are running in four areas of Oxford (West Oxford, East Oxford, Summertown and Blackbird Leys), working with the local communities to identify heritage assets. .
- 4.3 The NPPF (Para. 131) requires Local Planning Authorities when dealing with planning applications to take account of, amongst other matters, the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses; and an awareness that the conservation of heritage assets can contribute to sustainable communities and their economic viability.

- 4.4 The City Council will continue to work actively with the local community groups and bodies to explore the potential opportunities to add to this list which provides a clear demonstration of the important heritage value attached to these buildings by local communities in Oxford. Officers will send out a copy of this document together with a specific note on Heritage Assets to all Councillors and local community groups seeking nominations.
- 4.5 **Assets of Community Value: A building or an area of land can be listed as an Asset of Community Value** through a provision of the Localism Act. The Regulations require it to be an actual current use of a building or other land and is one that furthers the 'social wellbeing or social interests of the community' and can continue to be used in the future for social wellbeing or social interests of the local community but not necessarily in its present use. 'Social interests' could include cultural, recreational and sporting interests, so public houses would fall within this broad definition. For example Fairview Inn, Lye Valley has already been designated an Asset of Community Value.
- 4.6 Nominations must come from groups or bodies with a 'local connection', which includes parishes, neighbourhood forums and community organisations. Land or buildings proposed by these organisations are nominated to the City Council, who then decide whether or not it meets the definition and should be listed. The property is then added to the Local Assets of Community Value Register or listed as not registered. Following the City Council's decision to list an asset the landowner has the option to request an internal review by means of written representations or an oral hearing.
- 4.7 If land or property, such as a public house, is listed this allows local community groups the opportunity to put together a bid for an asset that is being disposed of. The landowner then has a duty to formally notify the City Council if they intend to make a disposal of the property. There is an initial 6 week moratorium. Groups can then ask to be considered as a potential bidder, which then triggers a 6 month moratorium. During the period of this moratorium the landowner cannot sell the property to anyone other than a community interest group. At the end of the moratorium the landowner is free to sell to whoever they wish.
- 4.8 The implications for planning are that once listed there are no restrictions on what the owner can do with their property while it remains in their ownership. Planning policies continue to be the principal determining factors of the future uses of a building. Whilst the designation of a building as an Asset of Community Value may not be a sufficient reason alone for refusing planning permission a listing could be considered by the Local Planning Authority as a 'material consideration' if an application for change of use is submitted. As an example Wiltshire Council refused planning permission for the conversion of a public house to a single dwelling on the grounds that 'the proposed development will result in the detrimental loss of a local service with a realistic prospect of viable community use.' The LPA specifically noted the 'prospect of a community bid to purchase and operate the pub', and therefore in the circumstances considered the application to be premature.
- 4.9 An application that subsequently went to appeal followed a decision in Arundel District to refuse planning permission to change the use of a public house. The Inspector took the view that since the property was listed as an Asset of Community Value this represented a 'material consideration' which was cited in dismissing the appeal.

4.10 Further detailed advice on nominating pubs as Assets of Community Value can be found on a recent publication by CAMRA, as set out below.

http://www.pubisthehub.org.uk/assets/media_library/CAMRA_Guide_to_Nominating_Pubs_as_Assets_of_Community_Value_2013.pdf

Appendix 1 – Policy RC.18 Public houses

Public Houses

12.9.9 Public houses have two distinct roles: firstly, in mainly residential areas as a community facility; and secondly as part of the historic legacy of Oxford. The City Council will prevent their loss to alternative uses unless a lack of viability can be clearly demonstrated over a reasonable time-scale, which is not due to operational or marketing practices. Viability should take into account a range of factors such as evidence of the property having been properly marketed for its existing use at a reasonable price, the catchment population, other facilities in the area serving the same market, and accessibility by modes other than the private car.

Policy RC.18

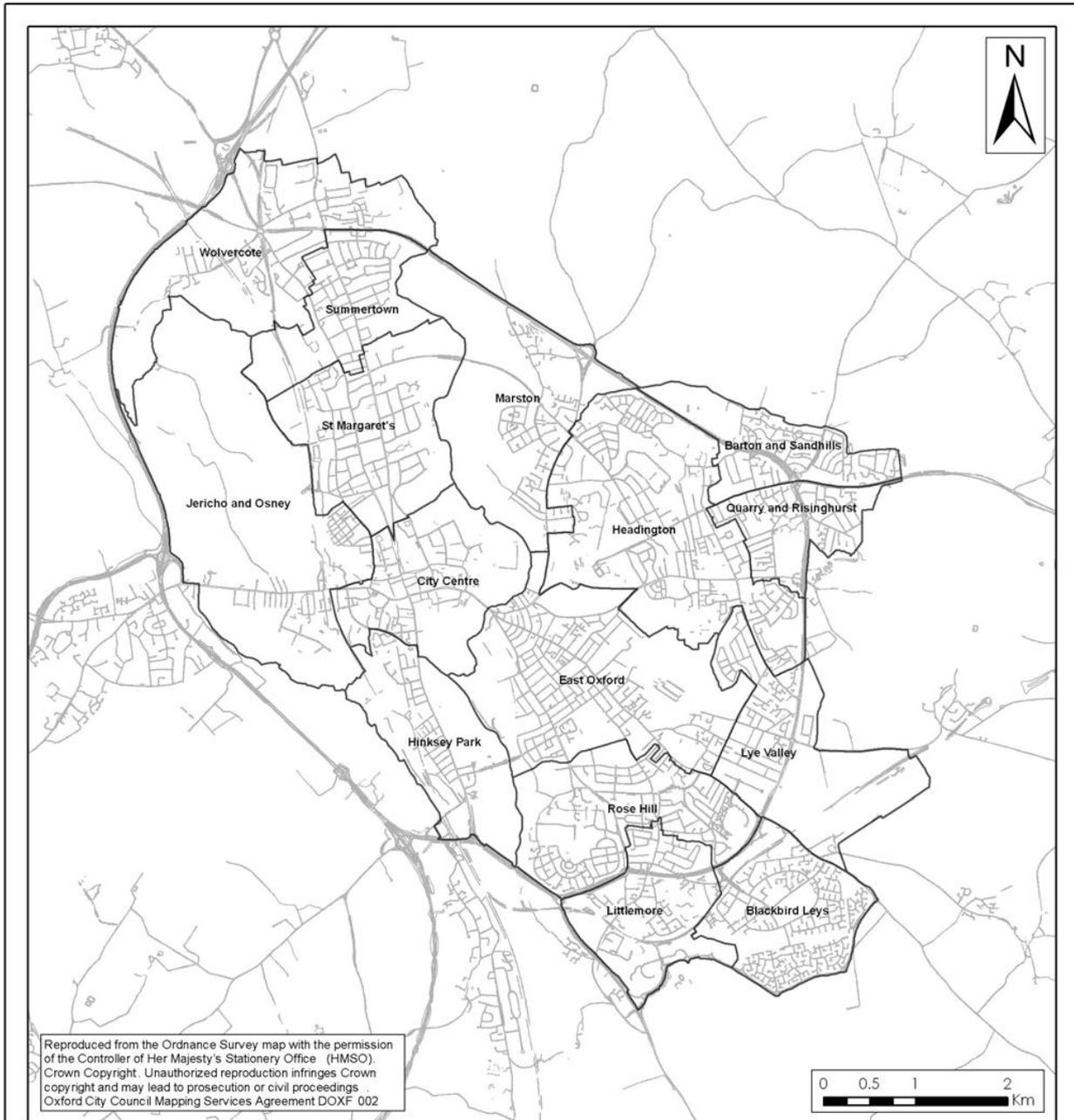
Planning permission will only be granted for the change of use of a public house if one or more of the following criteria are met:

- a. no other potential occupier can be found following a realistic effort to market the premises for its existing use;**
- b. substantial evidence of non-viability is submitted; and**
- c. it is demonstrated that suitable alternative public houses exist to meet the needs of the local community.**

ADOPTED OXFORD LOCAL PLAN 2001-2016
NOVEMBER 2005

The Local Plan should be read as a whole. Proposals will be judged against all relevant policies.

Appendix 2 – Neighbourhood Areas



Proposed Neighbourhood Areas