

# Oxford City Council Technical Advice Note (TAN) 4: Community Pubs

January 2021

## 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.
- 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. This is even without the considering the impact of the COVID-19 pandemic, which is still being understood but is expected to be completely unprecedented and perhaps raising fundamental questions on the nature of the entire hospitality industry itself.
- 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 public houses as part of the cultural and social infrastructure of the city, on par with other establishments such as theatres, museums, cinemas, galleries, sports and music venues. Like all the other establishments pubs fulfil important social and economic roles and make a positive contribution to maintaining and developing sustainable communities. The present policy framework for the consideration of planning applications affecting public houses is set out in Policy V6 in the Oxford Local

Plan 2036. 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 Technical Advice Note (TAN) aims to provide further information and advice to assist developers, the local community and decision makers when applying Policy V6 and in particular how the assessment 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 TAN will be subject to update, when required in the light of experience and changes to best practice and wider national and local policy.

## 2. POLICY CONTEXT

**2.1 National:** The National Planning Policy Framework (NPPF) was updated on 19<sup>th</sup> June 2019 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. An IPPR [report](#) 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.
- 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.
- 2.5** In relation to the heritage importance of public houses, NPPF paragraph 191 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 92 in particular requires planning policies and decisions to take into account the following key factors:
- *‘plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
  - *take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
  - *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; d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the 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 V6 in the Oxford Local Plan 2036 seeks to preserve Oxford’s infrastructure of cultural and social venues as a vital means to keep centres vibrant and adding to the local quality of life. It recognises their vulnerability to redevelopment pressures and encourage the development and adaptation for the benefit of the communities they serve. The policy contains provisions specifically to protect pubs from avoidable loss, a recognition of their importance as community facilities and as parts 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** Policy V6 is flexible and responsive to economic changes but requires a robust assessment of all of the stated policy 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. Some of these buildings also hold a value in of themselves as parts of the City’s historic legacy, and other policies in the plan makes provision for the acknowledgement of existing or potential roles as Heritage Assets. 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.
- 2.9 Changes to Use Classes Order:** Significant changes have been made to the Use Classes Order effective from 1 September 2020, which would have significant implications on the way that proposals and uses of buildings would be assessed. Several uses have been consolidated under the same class, with a number of new classes created whilst many of the previous use classes have disappeared altogether. Use Class A4, under which pubs and other drinking establishments had previously fallen, is one of those that have been revoked. Pubs and drinking establishments are now to be consolidated under the ‘Sui Generis’ use class. The main implication of this change is that there are no longer any ‘permitted’ changes of use, and planning permission would be required.

**2.10** There is however a “material period” from 1 September 2020 to 31 July 2021 where transitional arrangements will apply, during which time the changes there will be a phasing of some of the changes, relating specifically to permitted development, existing applications and prior approvals. The material period also allows a grace period for development currently permitted under the General Permitted Development Order (GPDO) on the basis of the ‘old’ Use Classes Order to continue.

**2.11 COVID-19 Impact:** In light of the COVID-19 pandemic, the government has put in place various measures to mitigate the impact on the hospitality industry as well as encouraging public safety. The government has proposed a number of temporary measures to planning and licensing rules in order to simplify the simplify and reduce the costs of the licensing process for outdoor seating and stalls, and the consumption of alcohol off premises, making it easier for people to safely drink and dine outside. Pubs and restaurants will be able to use car parks and terraces as dining and drinking areas, using their existing seating licenses. From the perspective of planning there are provisions within the GPDO that would allow establishments to erect temporary structures such as marquees without the need for planning permission to allow for expanded outdoor seating and social distancing. Government COVID-19 advice is continuously evolving and the latest changes are available [online](#).

### **3. ASSESSMENT OF PROPOSALS USING POLICY V6 CRITERIA**

**3.1** In order to help implement Policy V6 in a consistent way, advice is provided below on each of the criteria for proposals affecting public houses 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 V6 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](#).
- 4.3 The NPPF (paragraph 185) 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.
- 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. Since the implementation of the Act, several pubs in Oxford have been nominated and designated as Assets 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.
- 4.9 The Campaign for Real Ale (CAMRA) has produced a number of resources with detailed advice on nominating pubs as Assets of Community Value, which can be found [online](#). Oxford City Council's own guidance notes on the Assets of Community Value nomination.



## 5. CONTACT DETAILS

### a) General Development Management Queries

**Drop in (subject to public health advice):** St Aldate's Customer Service Centre, 109-113 St. Aldate's, Oxford OX1 1DS.

**Phone:** 01865 252175. Monday to Friday from 10am to 1pm.

**Email:** [planning@oxford.gov.uk](mailto:planning@oxford.gov.uk) (with subject line: General Planning Enquiry)

### b) Local Plan and Heritage Queries

For queries on the Local Plan and other aspects of planning policy please contact the **Planning Policy team** at [planningpolicy@oxford.gov.uk](mailto:planningpolicy@oxford.gov.uk)

For advice on historic buildings, conservation areas and other heritage matters please contact the **Urban Design and Heritage Team** at [heritage@oxford.gov.uk](mailto:heritage@oxford.gov.uk)

### c) Licensing Contacts

The Licensing Authority

St Aldate's Chambers

109 St Aldate's, Oxford

OX1 1BX

**Phone:** 01865252565

**Email:** [licensing@oxford.gov.uk](mailto:licensing@oxford.gov.uk)

## 6. USEFUL WEB RESOURCES

### Oxford City Council Planning Policy documents:

The development plan documents including Adopted Oxford Local Plan 2036, Policies Map and others.

### Pre-application advice service:

If you know that you need planning permission and would like advice as to whether or not your proposal is likely to be granted planning permission, please use our pre- application advice service. You can also make use of the planning duty officer service, details for which are available [online](#).

