

## **Cheers! Do pubs have a future?**

Some like to take their leisure in the gym; others prefer to prop up the bar alongside drinking companions.

### **Scale of the Problem**

The Campaign for Real Ale shows that there were 52,750 UK pubs at the end of 2015 with a rate of decline of 27 closures a week for the second half of the year compared with 29 in the first half and 45 in 2009 – the worst year.

Why this decline of a very British Institution? The smoking ban; tougher drink drive laws; cheap alcohol in supermarkets; changing social habits with more home entertainment; rising expenses such as rates; and alternative use values which often far exceed a pub's worth.

### **The Fight Back Starts**

Simply closing the pub saves overheads at a time of falling revenues. Alternative uses require planning permission which can lead to debate on its potential loss and future viability.

The Localism Act 2011 introduced a new provision whereby Assets of Community Value can be listed and local people given the chance to purchase the asset. Application is made to the local authority who then have to consider whether it is suitable for such listing. The owner can appeal but so far few have succeeded in turning away the designation.

Once the designation is confirmed then the local group have the opportunity of purchasing. The difficulty is what value should be ascribed to it.

Is it the existing use, or an enhanced value to reflect the potential for change of use or development?

### **Community Pubs**

If the purchase is successful then the group can run the pub, serving the local community.

An alternative procedure is to challenge a planning application/appeal for changing the use of a pub or its demolition. In respect of a pub at Cold Norton, near Maldon in Essex, an Inspector dismissed the appeal in respect of housing on the site and subsequently the community purchased the building and are running it successfully.

In perhaps the most notorious case the Carlton Tavern, in Maida Vale, NW6 - in a Conservation Area - was demolished without consent in a few days. Following an enforcement appeal for its re-instatement the Inspector upheld the notice – requiring the building to be rebuilt – and effectively negating any plans for residential development on the site.

### **Changes of Use**

Currently pubs are able to change use without obtaining planning permission under permitted development rights: from A4 use (drinking establishments) to A1 (retail), as well as to A2 (financial and professional services) and A3 (restaurants and cafes) uses. Some local authorities, notably Wandsworth and Southwark, have made Article A4 directions within their area, whereby these permitted development rights are removed.

The Government has now agreed, in the Neighbourhood Planning Act 2017, that this move should apply nationwide. In other words, a change of use of a pub to any other use will require planning permission.

This raises the question as to whether a change from an old-style pub to a family restaurant/pub (A3) will now be possible without planning permission. Often the food offering is the saviour of a pub and can often be a significant proportion of turnover. Is a pub a pub in these circumstances?

### **Where Now?**

Councils through local designations have taken away permitted development rights from pubs and made them apply for planning permission if a change of use is desired. This requirement to apply for planning permission will now apply nationwide, and local planning authorities and the public will have the opportunity of debating whether such changes should be permitted or resisted in the best interests of the particular pub (and the area in which it sits).

It still leaves the question of ancillary car parks (often quite large), pub gardens and surplus floorspace to be debated: can they be used independently or do they form part of the planning unit, therefore, requiring permission for any change alongside the pub?

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