



To: Executive Councillor for Planning and Climate Change
Report by: Head of Planning Services
Relevant scrutiny committee: Development Plan Scrutiny Sub Committee 11/9/2012
Wards affected: All Wards

Interim Planning Policy Guidance (IPPG) on The Protection of Public Houses in the City of Cambridge – Report on key issues arising from Public Consultation

1. Executive summary

- 1.1 The Development Plan Scrutiny Sub Committee on 12th June 2012 approved the Interim Planning Policy Guidance (IPPG) on The Protection of Public Houses in the City of Cambridge (see Appendix A) for public consultation from 15th June until 27th July 2012.
- 1.2 This report discusses the representations received during the six-week period of public consultation. Members' views are sought on a number of key issues that have been raised.

2. Recommendations

- 2.1 This report is being submitted to the Development Plan Scrutiny Sub-Committee for consideration and comment, to guide the changes to the final IPPG prior to adoption of the IPPG by the Executive Councillor for Planning and Climate Change at Environment Scrutiny Committee.
- 2.2 The Executive Councillor is recommended to agree the proposed responses to the key issues set out in Table 3.1 in this report.

3. Background

Purpose of the IPPG

- 3.1 The Council, in response to local concern regarding the loss of public houses in Cambridge, commissioned consultants to produce a Cambridge Public House Study.

- 3.2 The report's research explains how public houses are an important part of the Cambridge economy, not just for the direct and indirect jobs they provide in the pub, supplier, food and brewing industries, but in supporting the City's main industries by attracting and providing a meeting place for a wide cross section of the City's population, workers and visitors.
- 3.3 Alongside the Cambridge Public House Study, the IPPG was produced in order to set out the principles for development affecting public house sites in Cambridge until the adoption of the new Local Plan (scheduled for April 2014). The IPPG recommended guidance for proposals resulting in the loss of a public house and was prepared to take account of the following development management principles:
- The need to preserve the important social/community function of the public house;
 - The need to preserve the important economic function of the public house; and
 - The need to allow flexibility in terms of responding to economic change
- 3.4 The guidance recommends the following guidance for proposals resulting in the loss of a public house (listed in Section 4 of Appendix A).

Development will only be permitted when evidence has been provided to satisfy the following criteria:

- The public house has been marketed for 12 months as a public house free of tie and restrictive covenant and for alternative local commercial or community facility, at a price agreed with the Council following an independent professional valuation (paid for by the developer) and there has been no interest in either the free- or lease-hold either as a public house, restaurant or other use falling within the 'A' use classes or as a community facility falling with 'D1' use class; and
- All reasonable efforts have been made to preserve the facility (including all diversification options explored – and evidence supplied to illustrate this) but it has been proven that it would not be economically viable to retain the building or site for its existing or any other 'A' or 'D1' class use; and
- Adequate alternative pub provision exists, or replacement provision is made available, in an equally or more accessible location within 400 metres walking distance to provide one pub per 750 working age adults; and
- It has been otherwise demonstrated that the local community no longer needs the public house or any alternative 'A' or 'D1' class

use and its loss would not damage the availability of local commercial or community facilities that provide day-to-day needs in the local area.

- 3.5 The IPPG contains a list of public house sites to be safeguarded (in Section 5 of Appendix A) and these are listed under three broad headings according to their location and how they currently serve the community. The three heading are:
- Pub Sites providing an important Local Community Facility in Suburban Areas;
 - Pub Sites within edge of city clusters providing an important city wide economic and local community function; and
 - City centre, riverside or village pub and bar sites providing an important economic and tourist function.
- 3.6 A fourth heading included public house sites that were not included on the safeguarding list with a brief explanation for their categorisation.
- 3.7 Any proposals to convert or redevelop a former public house (on the list of safeguarded sites) since converted to a different 'A' use to a non-A use, will still be subject to the above development management principles.
- 3.8 Any proposals for a former public house (not on the list of safeguarded sites) that is subject to a planning application for conversion to a non-A use will also be subject to the above development management principles where the vitality and, or vibrancy of the local neighbourhood would be adversely affected.

Recent Appeal Decisions

- 3.9 Since the IPPG was approved three appeal decisions relating to the loss of public houses in Cambridge and South Cambridgeshire have been received. These are listed below with a brief summary of their relevance to the IPPG. It should be noted that they were all dismissed and the complete appeal decisions are attached in Appendix B.
- For the Unicorn PH, 15 High Street, Cherry Hinton, involving the change of use from a public house to single dwellinghouse the Inspector noted:
 - A settlement with a growing population needs to have clear evidence that a site is no longer suitable for social/community use before a change of use is considered; and
 - There was a lack of evidence to prove no other pub operator was interested in the site and this fails to guard against the unnecessary loss of a pub; and

- There was no evidence that diversification could not retain the site for the benefit of the community.
- For the Carpenters Arms PH, 182-186 Victoria Road, involving the conversion of a public house and letting rooms to residential apartments the Inspector noted:
 - Public houses considered to be local community facilities include those that are valued by a local community;
 - There was no evidence that the public house was priced and marketed as a public house for a reasonable length of time, with an agent who specialised in the licensed trade, and therefore it has not been demonstrated that a different approach to operating the public house would not be viable; and
 - The NPPF is an important material consideration and a more recent publication therefore it is given significant weight compared to the Cambridge Local Plan; and
 - According to the NPPF, to determine whether a change of use of the building (a valued community facility) is necessary it should first be marketed as a public house. This approach would also be consistent with how applications for changes of use in relation to other local community facilities are dealt with under policy 5/11 of the Local Plan.
- The Plough (former public house), High Street, Shepreth, Royston, involving the change of use from a restaurant (in use since 2004) to a residential dwelling the Inspector noted:
 - Looking solely at the last use of the premises is rather too narrow and simplistic. Changing a pub to A3 use class through permitted development is a way of circumventing policy restrictions seeking to prevent the loss of pubs as community facilities;
 - The former pub is suitable for a pub use and the proposed development would result in the loss of a potentially viable community facility;
 - The site should be marketed at a realistic price throughout that period; and
 - The loss of a potentially valuable community facility was unacceptable.

3.10 The draft IPPG and its supporting documents remain available on the Council's website at <http://www.cambridge.gov.uk/publichouses>

Consultation

3.11 After being approved for public consultation at Development Plan Scrutiny Sub-Committee on 12th June 2012, the draft IPPG for consultation was the subject of public consultation from 15th June until 27th July 2012.

- 3.12 Notification of the consultation was sent to the statutory and other consultees identified in the June 2012 DPSSC report. The consultation material and response forms were made available at the Customer Service Centre in Mandela House and were sent to public libraries. All of the consultation material was made available on the Council's website and an online consultation system was utilised to allow people to submit their comments via the Internet (hard copies of the response forms were made available to those who do not have access to the internet). In addition, a press release appeared on the Cambridge News website and an article was placed in the Cambridge Matters Summer 2012 containing information about the consultation and how people could get involved. A Members briefing was also held in July to provide a forum for particular questions regarding the IPPG. The British Beer & Pub Association, the principal organisation representing Britain's brewers and pub companies was also consulted.
- 3.13 By the end of the consultation period, a total of 42 respondents had lodged 152 separate representations: 43 in support of and 109 of objection to the draft IPPG. Officers are working through all representations and are drafting responses. Summaries of all representations have been attached for information as Appendix C to this report.
- 3.14 Almost 30% of the representations made were in support of the IPPG. The remainder were either not in support of the IPPG or requests for amendments to the IPPG. There was a broad consensus that the IPPG was needed however there were questions related to the weight that could be afforded to it in comparison to other Local Plan policies and the competing demands between community facilities, student accommodation and housing. Other representations concluded that changing social circumstances would inevitably lead to the decline in the number of public houses. Concern was raised over the onerous conditions that needed to be satisfied, including the marketing strategy and requested alternative criteria to be considered. However, support was also provided for these tests in particular for continued viability and alternative operators to be allowed to run public houses.
- 3.15 Suggestions to alter the criteria (see paragraph 3.4) included requests for both an increase and decrease to the marketing period by six months. The increase to a minimum 18 months would be less than 2 years currently asked for by Merton Council Local Plan Policy L15. Whereas a six month period was considered to provide greater flexibility and a fairer reflection of economic circumstances. It was

suggested to broaden the viability tests regarding a pub's marketing and diversification.

- 3.16 Cambridge Past, Present and Future (CPPF) and the voluntary organisation 'Campaign for Real Ale' (CAMRA) generally supported the IPPG development principles but disagreed with the flexibility of diversifying a former public house use into an alternative community facility or other 'A' class use. This point was also raised in other representations.
- 3.17 Both CPPF and CAMRA also suggested the use of Article 4¹ directions to prevent the unnecessary loss of a local amenity.
- 3.18 Assessing overall provision for an area over time could provide a means of measuring adequate alternative provision.
- 3.19 CAMRA supported the list of safeguarded pubs however along with CPPF indicated a number of corrections to the list and suggested the inclusion of a number of former public houses where the public house use could return (most of which are currently restaurants).
- 3.20 Concern was also raised about the justification for the proposed IPPG and the failure of the Cambridge Public House Study to have properly assessed each public house or indeed visited each pub site. Both the Cambridge Public House Study and proposed IPPG were commissioned in response to growing local concern surrounding the loss of public houses in Cambridge. The evidence gathered which involved visiting every public house site as part of the Public House Study's audit will be used to develop any emerging policy in the Local Plan Review.

Key Issues for Consideration

- 3.21 The remaining representations objected to a range of different issues and these are outlined in Table 3.1 with suggested changes to the draft IPPG, for consideration and steer by Councillors. Appendix C contains summaries of all representations in plan order for reference.

Table 3.1

Issue	The issue of public house viability and the use of marketing to test this condition were raised. A number of representations regarded marketing as
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¹ An Article 4 direction allows Local Planning Authorities to withdraw the 'permitted development' rights that would otherwise apply by virtue of the Town and Country Planning (General Permitted Development) Order 1995 as amended. An article 4 direction will not prevent the development to which it applies, but instead requires that planning permission is first obtained from the LPA for that development.

	unnecessary especially where the public house had proved not to be a viable business. Recent appeal decisions (see paragraph 3.9) support the use of marketing to evidence their viability.
Requested Change to Plan	Add reference to the use of marketing in recent applicable appeal decisions in the IPPG to support this requirement.
Issue	Need to clarify how the IPPG fits with the NPPF. The IPPG is not intended to conflict with the NPPF and therefore further explanation is needed to explain how the IPPG works within the NPPF, with particular reference to paragraphs cited in the representations.
Requested Change to Plan	Amend relevant sections of the IPPG, including references to recent applicable appeal decisions and clarifying the relationship between Local Plan Policy 5/11 and its relationship with the NPPF (including paragraphs 14, 21 and 153) and public houses as a community facility and emerging policy.
Issue	Lack of reference to how pubs help form the character of Cambridge other than a general reference.
Requested Change to Plan	Add explanation of how pubs in the City make a positive contribution to the character and appearance of Cambridge, for example: How the various public houses along the River Cam help retain and enhance the quality of the river's setting and appearance; and How pubs allow both local people and visitors, alike to enjoy the City's character, including their historical importance.
Concern	English Heritage raised a specific concern regarding the deliberate neglect of public houses with reference to the NPPF, paragraph 130
Requested Change to Plan	Insert appropriate comment into the IPPG reflecting the advice of English Heritage for decision making to ignore a pubs deteriorated state in any decision concerning its future or demolition where there is evidence of deliberate neglect or damage.
Issue	Lack of explanation of how new public houses are supported by the IPPG
Requested Change to Plan	Add brief explanation of how new public houses are treated by the current Local Plan saved policies in

Plan	particular Local Plan Policy 5/12.
Issue	Confusion regarding the requirement to provide one pub per 750 working age adults (in criterion 4(c)). The 750 working age adults threshold reflected the Public House Study's assessment of the minimum size of a local catchment area that could support a community public house in Cambridge.
Requested Change to Plan	Simplify criterion 4(c) by removing the capacity requirement of the criterion, which stipulates any replacement public house has a capacity to serve a local market of at least 750 working age adults. GVA consultants advise that any new public house would normally have a capacity to serve a local market in excess of 750 working age adults to ensure its viability.
Issue	400mtr catchment areas are too restrictive and unjustified. Concern was raised about the adoption of this catchment distance.
Requested Change to Plan	Elaborate on the 400mtr catchment area including published references, appeal decisions regarding catchment areas and how these relate to Cambridge.
Issue	Difficulty with the application of the IPPG on a former public house site not on the list of safeguarded public house sites (see para 3.9 above).
Requested Change to Plan	Under the Use Class Order, public houses and other A4 uses can change to higher order use class (A3, A2 or A1) without needing planning permission. Although, planning permission could be required for building alterations. Taking the case of a restaurant in a former public house building, if the public house already served food it may already have had a kitchen with extractor fans etc. in order to provide food. Overtime, it would be permissible for the pub to turn into a restaurant without formerly requiring planning permission. It is therefore difficult to determine when a public house changed into a restaurant unless some form of audit took place or specific planning permission was granted indicating a different use was now in operation. Anecdotal evidence may suggest when a pub became a restaurant however this could not be relied upon as a means of

	determining its date of conversion. This means it is difficult to establish when a public house stopped being a public house and changed use legitimately into a different use without planning permission. It would therefore be reasonable to only apply the proposed guidance to those public house sites on the safeguarding list that were audited.
Issue	Should public house sites that have unimplemented planning permission be included in the list of pub sites to be safeguarded?
Requested Change to Plan	Yes. While the loss of the pub site may not have been an issue at the time of the planning decision, the loss of a pub or a <u>potential pub</u> is now a concern. Therefore the IPPG should be applicable in any new planning application that involves the loss of a pub site (audited) despite it already having been granted planning permission for alternative use. Any existing approved planning permission would not be affected by the guidance.
Issue	The IPPG does not make any specific reference to the protection / retention of pub gardens/car parks
Requested Change to Plan	The IPPG needs to retain sufficient flexibility to allow public house sites to adapt to changing consumer trends and permit some form of diversification to retain the public house use on site. However, it is also important that the amenity area of the public house site is protected. This would therefore be emphasised in the IPPG with the inclusion of a reference to the application of Local Plan Policy 3/10 'Sub-division of garden plots' to proposals affecting public house outdoor space such as the pub garden and car park area.

3.22 Appendix D contains a proposed revised IPPG Section 5 'List of safeguarded existing and former pub sites' chapter, taking account of the representations submitted and the proposed changes listed in Table 3.1 above.

Next Steps

3.23 Following Development Plan Scrutiny Sub Committee, officers will use the steer provided by Councillors and the representations received to develop the final version of the IPPG and this will be reported to the Environment Scrutiny Committee Council Meeting on 9 October 2012 for adoption. The report to Environment Scrutiny Committee will

comprise a 'tracked changes' version of the IPPG for adoption and a breakdown of the summaries of representations and the Council's responses.

- 3.24 The policy issues surrounding the loss and protection of public houses will continue to be addressed through the Local Plan Review.

4. Implications

Financial Implications

- 4.1 There are no significant direct staffing or procurement issues arising from this report. Staffing resources are already committed through the budget and service plan process.

Staffing Implications

- 4.2 There are no direct staffing implications arising from this report. The review of the Local Plan is already included in existing work plans.

Equal Opportunities Implications

- 4.3 Policies for the protection of and development of new public houses will need to be developed with equality implications in mind.

Environmental Implications

- 4.4 The guidance contained within the IPPG follows the principles of sustainable development as set out in the NPPF.

Consultation

- 4.5 The IPPG consultation was consistent with the Councils Code of best practice on consultation and community engagement.

Community Safety

- 4.6 There are no direct community safety implications arising from this report.

5. Background papers

- 5.1 These background papers were used in the preparation of this report:

- Cambridge Local Plan
<http://www.cambridge.gov.uk/public/docs/Local Plan 2006.pdf>
- Cambridge Public House Study

6. Appendices

Appendices

- Appendix A Interim Planning Policy Guidance (consultation draft)
- Appendix B Appeal Statements for
 - The Unicorn, Cherry Hinton, Appeal Ref: APP/Q0505/A/11/2167572
 - The Carpenters Arms Public House, Appeal Ref: APP/Q0505/A/12/2168512
 - The Plough, High Street, Shepreth, Royston, Appeal Ref: APP/W0530/A/11/2167619
- Appendix C Schedule of Consultation Representations
- Appendix D Revised IPPG Section 5 'List of safeguarded existing and former pub sites' chapter

7. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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