



To: Executive Councillor for Planning and Climate Change: Councillor Tim Ward
Report by: Head of Planning Services
Relevant scrutiny committee: Environment Scrutiny Committee 9/10/2012
Wards affected: All

**Adoption of the Interim Planning Policy Guidance (IPPG) on The Protection of Public Houses in the City of Cambridge
Key Decision**

1. Executive summary

- 1.1 The Council, in response to local concern regarding the loss of public houses in Cambridge, commissioned consultants to produce the Cambridge Public House Study and Interim Planning Policy Guidance (IPPG) on The Protection of Public Houses in the City of Cambridge.
- 1.2 This report relates to the adoption of the IPPG on The Protection of Public Houses in the City of Cambridge.
- 1.3 Consultation on the draft IPPG on The Protection of Public Houses took place for six weeks between 15th June and 27th July 2012. A number of comments were received and a steer from the Executive Councillor for Planning and Climate Change and the members of Development Plan Scrutiny Sub Committee was sought in September 2012 on a series of key issues (listed in Table 3.1) that were raised during the consultation. The final revisions have now been made to the document.
- 1.4 Appendix A summarises the representations received to the draft IPPG and proposed responses. Appendix B provides a track-changed version of the IPPG. Appendix C provides a copy of the Cambridge Public House Study.

2. Recommendations

The Executive Councillor is recommended:

- 2.1 To agree the draft responses to the representations received to the draft IPPG (Appendix A) and the consequential amendments to the IPPG;
- 2.2 To adopt the IPPG (Appendix B) with immediate effect;
- 2.3 To agree the contents of Cambridge Public House Study (Appendix C) and to endorse it as an evidence base document with immediate effect.

3. Background

- 3.1 The Council, in response to local concern regarding the loss of public houses in Cambridge, commissioned consultants to produce the Cambridge Public House Study and Interim Planning Policy Guidance (IPPG) on The Protection of Public Houses in the City of Cambridge.
- 3.2 The Cambridge Public House Study 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 students, academics, scientists and entrepreneurs, and in attracting office workers, shoppers and tourists.
- 3.3 Alongside the Cambridge Public House Study, the draft 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 draft IPPG also recommended guidance for proposals affecting 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 IPPG recommended guidance for proposals affecting the loss of a public house and contained a list of public house sites to be safeguarded and those not to be included on the safeguarding list with a brief explanation for their categorisation.

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

Recent Appeal Decisions

3.6 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.

Consultation

- 3.7 Development Plan Scrutiny Sub-Committee agreed the draft IPPG public consultation on 12th June 2012. Please see link to the relevant committee report:
<http://mgsqlmh01/documents/g682/Public%20reports%20pack%2012th-Jun-2012%2016.30%20Development%20Plan%20Scrutiny%20Sub-Committee.pdf?T=10>. The public consultation took place from 15th June to 27th July 2012.
- 3.8 Notification of the consultation was sent to the statutory and other consultees identified in the June 2012 Development Plan Scrutiny Sub-Committee 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 an article was placed in the Cambridge Matters Summer 2012 containing information about the consultation and how people could get involved. The Cambridge Evening News ran an article on the consultation. There was also interest from planning media including the Morning Advertiser and Planning Resource. 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.
- 3.9 By the end of the consultation period, a total of 42 respondents had lodged 159 separate representations: 43 in support of and 116 of objection to the draft IPPG. Officers have drafted responses to all representations. Summaries of all representations and the draft responses have been attached for information as Appendix A to this report.
- 3.10 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.

- 3.11 Suggestions to alter the marketing criteria included requests for both an increase and decrease to the proposed 12 month marketing period by six months. Whilst a six month period was considered to provide greater flexibility and a fairer reflection of economic circumstances, the increase to a minimum 18 months would be less than 2 years currently asked for by Merton Council Local Plan Policy L15 and was suggested to broaden the viability tests regarding a pub's marketing and diversification.
- 3.12 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.
- 3.13 Both CPPF and CAMRA also suggested the use of Article 4¹ directions to prevent the unnecessary loss of a local amenity. Putting an Article 4 in place is a separate legal process from that of the IPPG and therefore would need to be established separately. Officers will investigate this matter in more detail but it should not prevent the adoption of the IPPG.
- 3.14 Assessing overall provision for an area over time could provide a means of measuring adequate alternative provision.
- 3.15 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).
- 3.16 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

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.

Plan Review. Appendix A contains summaries of all representations in plan order for reference.

3.17 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. These issues and suggested changes were considered and agreed by Development Plan Scrutiny Sub Committee on 11 September 2012. Please see link to the relevant committee report:

<http://mgsqlmh01/documents/s13423/IPPG%20DPSSC%20Report%20Sept.pdf>.

Draft responses and associated changes to the IPPG have since been made in line with the key issues raised and are included in Appendix A (Draft responses to representations) and Appendix B (Tracked version of the IPPG).

Table 3.1

Issue 1	The issue of public house viability and the use of marketing to test this condition were raised. A number of representations regarded marketing as unnecessary especially where the public house had proved not to be a viable business. Recent appeal decisions (please see para 3.6 in main report) support the use of marketing to evidence their viability.
Change to Plan	Add reference to recent appeal decisions
Reference to documents	Cambridge Public House Study (see p51 of Appendix C) and IPPG para 2.16 (Appendix B)
Issue 2	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.
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.
Reference to IPPG	IPPG para 2.8-2.13 & 2.16 (Appendix B)

Issue 3	Lack of reference to how pubs help form the character of Cambridge other than a general reference.
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.
Reference to IPPG	IPPG para 3.5 & Section 5 (Appendix B)
Issue 4	English Heritage raised a specific concern regarding the deliberate neglect of public houses with reference to the NPPF, paragraph 130
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.
Reference to IPPG	IPPG para 3.5 & Section 5 (Appendix B)
Issue 5	Lack of explanation of how new public houses are supported by the IPPG
Change to Plan	Add brief explanation of how new public houses are treated by the current Local Plan saved policies in particular Local Plan Policy 5/12.
Reference to IPPG	IPPG para 2.14, 2.17, 4.15-4.18 (Appendix B)
Issue 6	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.
Change to Plan	Simplify development criteria in paragraph 4.5; move contents of criterion 4(c)
Reference to IPPG	IPPG original criterion 4(c) contents moved to Annex C (Appendix B)
Issue 7	400mtr catchment areas are too restrictive and unjustified. Concern was raised about the adoption of this catchment distance in criterion 4(c)
Change to Plan	Simplify criterion 4(c) as part of review of Issue 6
Reference to IPPG	IPPG original criterion 4(c) contents moved to Annex C (Appendix B)

Issue 8	Difficulty with the application of the IPPG on a former public house site not on the list of safeguarded public house sites (see paragraph 3.9 Appendix 3 of DPSSC committee report 11/09/12).
Change to Plan	<p>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.</p> <p>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.</p> <p>It would therefore be reasonable to only apply the proposed guidance to those public house sites on the safeguarding list that were audited.</p>
Reference to IPPG	IPPG original para 4.14 removed (Appendix B)
Issue 9	Should public house sites that have unimplemented planning permission be included in the list of pub sites to be safeguarded?
Change to Plan	<p>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.</p> <p>Any existing approved planning permission would not be affected by the guidance.</p>
Reference to IPPG	IPPG para 2.2 & Section 5 (Appendix B)

Issue 10	The IPPG does not make any specific reference to the protection / retention of pub gardens/car parks. This issue was raised at the IPPG Member's briefing.
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. Any development on these 'open' areas would need to be justified and linked to the long-term viability of the public house.
Reference to IPPG	IPPG para 4.19-4.21 (Appendix B)

3.8 Appendix B includes a tracked change version of IPPG where deleted text is struck through and new text is underlined.

Next Steps

3.9 Subject to approval by the Executive Councillor:

- The public consultation responses will be published and loaded on the Council's public consultation website;
- The IPPG will act as a material planning consideration and be published and loaded on the Council's website; and
- The Cambridge Public House Study will be published and loaded on the Council's website.

3.10 All Councillors and relevant officers will be notified about the approved IPPG and Cambridge Public House Study.

3.11 In terms of status, following adoption, the IPPG will be used as a material consideration in the planning process and as part of the evidence base for the Local Plan Review. It will be used as a material consideration with immediate effect for planning applications submitted on or after 9 October 2012.

3.12 As a material consideration, if a proposal for development came forward which might give rise to the loss of a public house site listed under those to be safeguarded, the work included allows the Council the opportunity to require the applicant has satisfied the guidance

criteria. The case officer for the planning application would use the findings supplied by the applicant to inform decision-making on the principle of the loss of the public house site.

- 3.13 In relation to forming part of the evidence base for the Local Plan Review, the Cambridge Public House Study and IPPG will be used to inform any proposed policy regarding public house sites in the Local Plan Review.

4. Implications

(a) **Financial Implications**

The financial implications are set out within the report above.

(b) **Staffing Implications**

There are no direct staffing implications

(c) **Equal Opportunities Implications**

No. There are no direct physical equality and diversity implications. Involvement of local people in the work followed the guidance set out in the Statement of Community Involvement.

(d) **Environmental Implications**

Nil. There are no direct environmental implications.

(e) **Procurement**

There are no procurement implications

(f) **Consultation and communication**

The consultations are set out in the report above and are in accordance with the Council's Code of Practice.

(g) **Community Safety**

There are no direct community safety implications.

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%20Plan%202006.pdf>

6. Appendices

Appendix A - Summary of Draft Consultation Responses

Appendix B - Interim Planning Policy Guidance on The Protection of Public Houses in the City of Cambridge (October 2012) with track changes

Appendix C - Cambridge Public House Study

7. Inspection of papers

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

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