Campaign for Pubs

Promote, Support and Protect Pubs

Rt. Hon. Angela Ryner MP
Deputy Prime Minister
Secretary of State for Housing
Communities and Local Government
2 Marsham Street
London
SW1P 4DF

24th September 2024

Dear Deputy Prime Minister,

Consultation on the Proposed reforms to the National Planning Policy Framework and other changes to the planning system

This is the Campaign for Pubs response to the open consultation on the proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system.

We are responding in this way (by letter) because most of the consultation is about changing the NPPF with regard to housing, whereas we wish to respond about pubs and the need for greater protection for pubs in the planning system.

We understand the need for more housing (in the right places) at the same time as balancing pressure on local services and also properly engaging with and consulting with local people.

The aspiration (and then delivery) for more housing should and must not lead to a further loss of pubs; indeed more housing and larger local populations increase the need for pubs as community hubs for communities.

We therefore urge that, when it comes to pubs, the NPPF reforms abide by the following three important principles:

1. That changes to the NPPF (and wider planning law) must not make it easier for pubs to be lost through conversion or demolition (or harder for communities and others to buy and save them).

2. That the NPPF (and wider planning law) is changed to address the fundamental flaws, weaknesses and loopholes in the NPPF (and wider planning law) that leads to the unnecessary loss of many pubs every year (and is a very significant problem at the current time with viable pubs being bought as development opportunities, closed, landbanked, converted and demolished, up and down the country).

3. That when it comes to areas of significant new housing, such developments are planned sustainably including the provision of pubs (both instructing councils oppose pub closures in areas where there is significant housing planned, but also including the provision of pubs in guidance for sustainable development, along with other amenities). Too often swathes of housing is built with no such sustainable development elements or services and no local facilities. Pub culture is a very important part of the community culture of the UK and so pubs should be included in developments and this should be included in the revised NPPF.

The need for changes to the NPPF and planning law to stop the unnecessary loss of pubs

There is an urgent need to change planning law to address the current problem of pubs being bought for development or conversion to another use (predatory purchasing). To stop this, the Government needs to introduce a simple but important principle when it comes to all historic (50 years or older) pubs which is that no such pub can be converted or demolished until and unless it has been properly, openly marketed for at least a year as a pub ***at the independently assessed value as a pub*** (and with the owner obliged to sell at that price, as a pub).

The underlying problem is the way that owners are permitted to sell pubs in whatever way they choose, which opens up the possibility of achieving hugely inflated sale prices way beyond the value of the pub as a trading business opportunity. This is very often used as a way of pricing pub buyers out and making the loss of that pub inevitable, because an owner seeking to maximise their return can simply ignore bids from any potential owner who wants to continue running the building as a pub, in order to accept inflated alternative bids for development. Many pubs, including those with car parks, beer gardens and bowling greens (of the few that remain), will inevitably have a (much) higher value as a development opportunity than they do as a pub.

Without action to stop the cynical profiteering that is currently an option open to those happy to exploit the weakness of our planning system, we will see many more historic pubs lost, with all the economic and social consequences that means in each case, as well as the further erosion of our history, heritage and pub culture, *all things that the NPPF and planning system should properly resist.*

The current NPPF and changes needed

New paragraph 95 contains the original wording from the existing NPPF which advises that *"the unnecessary loss of a public house and community amenity"* should be prevented.

Yet the reality is that the "unnecessary loss of pubs" is happening all the time. We have consistently highlighted the national scandal where pubs, especially historic pubs, are lost when owners refuse to accept a bid for pubs as a pub and instead seek to profit at the expense of the pub and the community by selling off a viable pub for development.

This statement therefore needs to become *meaningful,* backed with other key principles and levers, as too often some local authorities fail to abide by the basic principle of preventing the unnecessary loss of pubs, for a number of reasons – indifference, fear of the costs of appeal or conflicting guidance and insufficiently clear legislation. In other cases, some local authorities introduce their own policies and some local and regional planning policy is much tougher in pub protection credentials than national policy, giving rise to a disconnect, but also the reality that some communities are well served by councils opposing unnecessary pub conversions and demolitions and others are badly let down by their local authorities.

The previous Conservative Government also undermined the NPPF principle of resisting the unnesaary loss of pubs, with their High Street Auction initiative.

The proposed redrafting of the NPPF does therefore give the opportunity for vital changes to planning law, to resolve the current problems and genuinely prevent the unnecessary loss of pubs, something the Government must surely support.

There are currently four mentions of pubs in the NPPF:

- Paragraph 86 on rural communities
- Paragraph 95 on healthy and safe communities
- Paragraph 193 on integrating new development alongside existing businesses- noise, viability etc.
- Glossary- as an example of main town centre uses

There should be a *dedicated paragraph dealing with pubs*, both rural, urban, town centre, and otherwise. Pubs are unique cultural and social constructs in British society and famous throughout the world. They continue to be threatened by development and as low margin businesses, historically underinvested in by their owners due to the pubco and giant brewery business models, they are seen as easy targets. Yet well managed pubs can and do thrive and extensive research has proven the mental health benefits of pub going and people regard a good pub as a highly desirable feature in their community.

Question 71 of the consultation asks if we have any other proposals for Chapter 8.

We therefore suggest a new paragraph, which spells out in stronger terms, the social, economic, cultural and heritage value of pubs, as well as key principles needed to stop their unnecessary loss, as follows:

a) Public houses play an integral role in British society and provide social, economic, cultural and heritage value. Authorities should plan positively for the provision of new pubs in every community

b) Proposals involving the change of use or demolition of established pubs should be refused unless it can be demonstrated by independent evidence that the pub at that location is no longer viable. Alternative community use should be exhausted prior to any demolition or residential use being countenanced.

c) Proposals involving the part change of use of established pubs, or development within the pub curtilage, should be refused as this will harm the viability of the established pub.

d) Special material consideration should be given to pubs with heritage value. This includes locally and statutorily listed buildings and pubs within or adjacent to conservation areas.

e) Planning permission to convert or demolish a pub that is 50 years old or more shall not be granted until and unless the pub it has been properly, openly marketed as a pub for at least a year at the independently assessed value as a pub (and with the owner obliged to sell at that price, as a pub).

f) No pub owner shall be permitted to keep closed a pub of more than 50 years old or more for more than two years, unless they can demonstrate that (a) they have been actively seeking an operator and on reasonable and realistic terms and (b) that they are adequately maintaining the building and preventing damage. Once any pub has been closed (for any reason) for 3 years, then clause (e) is triggered meaning that the pub must be put up for sale, as a pub, at the independently assessed value as a pub.

We will now elaborate on the importance of point (e) – which will need to be enshrined in legislation in an accompanying Government Bill. This is a fundamental but very simple and commonsensical principle as it would mean that no pub where there is a buyer, as a pub, would be lost. It is a national scandal that up and down the country, there are many cases where historic pubs are being lost, converted and

demolished despite their being another party that wants to and is able to buy it, as a pub. This must be tackled by this Government.

Clause f) is designed to deal with the problem of pubs being left empty and in many cases 'landbanked' and cynically allowed to fall into disrepair, so owners/developers can persuade local authorities they then should be allowed to convert or demolish them for development. Too many communities have closed pub buildings in their areas, very often because an owner/developer is cynically keeping the pub closed till they get their way or is despite with the local authority (and at odds with a community seeking to re-open a pub).

Separate to the NPPF, but clearly related, we warmly welcome the suggestion that this Government will introduce a community right-to-buy (where there is currently a very weak 'right to make a bid', that an owner can ignore). Without clause (e) however, such a power would in many cases not assist, as an owner/developer intent on developing a pub or pub site would demand a wholly unrealistic price based on the development value, as opposed to the value as a pub. Clause (e) is essential, therefore, as it would oblige owners to accept market value offers as a pub, which would allow communities to be able to buy pubs (even without a new community right-to-buy) as well as commercial operators and individuals wishing and able to buy and run the pub.

We also urge that the Government gives local authorities stronger powers and clearer guidance to compulsorily purchase pubs where a community group or other party has or can raise the funds to buy the pub but an owner is refusing to sell.

The need for the changes – and the flaws and weakness of the current NPPF

The previous Government put all the onus onto local authorities to save pubs, which without clearer planning law, is a cop-out, as well as being unfair and unrealistic. Planning law isn't strong or clear enough and in too many cases, councils don't resist pub conversions when they face rich and greedy owners/developers going to appeal (something that is still denied to communities!), which then sees the Council hit with a legal bill they can scarcely afford.

Councils also are deceived that pubs are 'unviable' simply because they are told they are by the very owners who are seeking to profit from the conversion or development and without challenging this. Developers are buying (profitable) pubs just to run and shut them down and redevelop them. There is little to stop them apart from a handful of brave Councils taking enforcement action against owners, most notably in the Crooked House case in Himley, Staffordshire. We need change to planning legislation so it is absolutely clear and unchallengeable, that a historic pub cannot be converted or demolished until and unless it has been marketed at the independently-valued price as a pub for at least a year. The Government needs to make clear that no historic pub, with a future as a pub, can be converted or demolished.

Whenever the previous Government was asked about pubs and planning protection, the reply was always the Localism Act and Assets of Community Value (ACVs). However, the simple but stark reality is that ACVs do not work for pubs and in many cases, do not save pubs. The ACV system is deeply flawed for pubs, as well as being very time-consuming and burdensome for communities and a significant cost and duty for Councils. With the number of historic pubs under threat and at risk of predatory purchasing/asset-stripping, it is wholly unrealistic to think that ACVs could deal with this.

The current ACV system is also fundamentally flawed, for two key reasons. First of all, because it only allows a community group to bid for a pub, but secondly because once either of the moratoriums have been triggered, it actually *prevents* the pub being marketed as a pub or sold as a pub to other interests, which is absurd. When a pub closes and put up for sale, what a community wants is for someone to buy it as a pub and make a success of it. Only in some cases does the community actually want to take on that pub or have the resources to fundraise and organise a campaign to do so, which is a huge thing to take on.

ACVs also have to be renewed every five years, which with pubs again is onerous and plays into the hands of developers and unscrupulous or uncaring owners. Once a pub has been recognised as an Asset of community Value, it does not suddenly stop being a community asset five years later. This rule means communities have to go through the same process every five years (and to do so with every pub listed in their area) and Councils have to go through the bureaucratic process of going through the whole process again, an unnecessary task and cost for cash-strapped local authorities.

Finally, ACVs are also extremely weak, all the status actually does is give communities (and only communities) six months in which to try to raise the freehold value as a pub, which is not a realistic timescale for most communities to set up a Community Benefit Society, put together a campaign and raise the freehold costs. Even worse, it only creates a right to bid, not the right to buy, so even if when the community group raises the money, an owner can simply ignore it – and instead sell for more money or redevelop the pub, rendering all the hard work and fundraising of the community a complete and huge waste of time. We have examples of this we'd be happy to share. Far from empowering communities or saving pubs, the ACV system is frankly a weak, bureaucratic and confused mess.

ACVs alone are therefore not the solution nor any solution to the kind of cynical overpricing of pub freeholds (as development sites) and the kind of flagrant predatory purchasing we have seen in the case of the Crooked House. Nor, in truth, are they fit for purpose when it comes to protecting pubs. What is needed it a much simpler change to planning law, that does not impose a duty on communities nor a cost onto local authorities, of enabling any potential owner of a pub, as a pub, to buy the freehold at the price as a pub. ACVs can and should be used only when a pub is being proposed for conversion or development – and after it is established that there is no commercial buyer as a pub (rather than holding up the sale in the first place).

The new system for pubs (50 years old or more)

Instead of the current confused, flawed and weak system for pub protection, the NPPF should adopt our paragraph and the all important clause (e).

This proposed solution avoids complicated and convoluted rules around listing certain pubs deemed to be of historic importance, rather we argue that all pubs that have been pubs for 50 years or more would be given special planning protection giving them the simple chance to be bought as a pub, at the independently assessed value as a pub.

Under our proposed system, if a pub is no longer wanted by any operator or by the community after a year, then it could go through the normal planning process and potentially be converted or demolished either partly or fully, but that year of marketing would at least give every historic pub a fair chance of a future whereby it can be bought by a genuine operator and continue as a pub serving its community.

The change would also actually work for local authorities, as there would be a clear process to follow and no risk of appeal and the costs associated with it. It would also mean communities would only need to seek ACV status on pubs *once they are threatened*, which makes far more sense and reduces the cost burden to councils.

The new process would work as follows:

1. Owner logs the intention to close the pub to convert or demolish it or sell the pub for non-pub use (as opposed to selling it as a pub, which can happen without any interference).
2. The council monitors that the pub value is subject to a genuinely independent assessment and that it is openly and properly marketed for a year from first being advertised at that price.
3. During this time, the community can apply for ACV status for the pub, which must be automatically granted, in these cases (as it is already identified that the pub is at risk).
4. The owner is obliged to sell if there is any offer at the independently assessed value as a pub (if there is more than one such offer, they may chose which one to accept, at that price).
5. If there are no offers at the independently price as a pub, then the ACV legislation kicks in after the 12 month period, allowing the community to trigger the moratorium and a further period in which they can raise the asking price to buy the pub. The community should have a year to seek to raise the funds to buy the pub (was 6 months is not realistic in many cases).

As well as stopping unnecessary closures, this would also actively stop pubs being boarded up and allowed to rot, as happens with the current flawed system!

We are not proposing that this scheme be applied to other licensed premises, such as bars, micropubs, pop-up pubs and brewery taps, but only to all historic pub buildings that have been pubs for over 50 years, so there is no change for other licensed premises.

Please address the clear danger to pubs (and high streets) from the Conservative Government 'High Street Auction' initiative.

We expressed our serious concerns to the previous Government in this response, however the Conservative Government ignored this – and ignored this serious threat to high street pubs. This is yet another reason why a proper, workable system of protection for historic pubs is needed.

As so much business moves online, pubs, as one type of business that will always be physical, will play an even more important part of our high streets as other high street businesses (such as banks) close.

it is therefore absurd that the previous Government made it easier for high street pubs to be lost and we urge the new Government to address that (which would be done in any case by adopting our proposed pub paragraph in the NPPF, including clause (e).

Conclusion

We hope that the Government will recognise that, when it comes to pubs, the current NPPF is weak and flawed and fails to deliver its own objective of stopping the unnecessary loss of pubs.

In addition, without action to stop the deliberate and cynical overpricing of pub freeholds (as development opportunities), ACVs are as good as worthless. We therefore urge the Government to introduce a new dedicated paragraph on pubs into the NPPF as well as introducing the key principle that a historic pub should only ever be converted if there is no one who wants to buy it as a pub, at the independently marketed value as pub. This is precisely what our 'Give Pubs Protection' policy calls for.

When anyone – individual or company buys a historic pub – they buy the building as a pub and can therefore expect to realise the value as a pub, when they sell it. They cannot and should not seek to profit from selling the pub for development and this must be stopped where there is a buyer as a pub.

The reality, as campaigners and publicans know all too well, is that some of the large pubcos treat our pubs as monopoly pieces and once they can't overcharge tenants any longer, through the onerous terms of tied leases, they cash in by selling to a supermarket or developer. When pubs are sold off to developers and supermarkets, it is shareholders, foreign bondholders and offshore economies that benefit at the expense of local communities. It's a question here of whose side this Government is on.

The good news, when it comes to pubs and a more sustainable future, is that there are small pub companies, local breweries, sitting licensees, entrepreneurs and communities who are buying some pubs, saving them and making a success of them (where their future had been at risk due to the previous ownership/business model). With the change to planning law we are calling for, these groups would be able to buy pubs, in far greater numbers, to invest in them and offer what their local communities and customers want. Currently in many cases, they are being actively prevented from buying pubs they want to and have the money to, which is wrong and must be changed.

This simple change would actually cut red tape, would reduce costs to Councils and is the only sure way to stop the deliberate asset stripping of pubs, which is something that is a threat to our pub culture, our heritage and history as a nation and to community spirit in communities affected. It is also a much more sensible and indeed market-based solution than relying on the ACV system, which restricts pub bids to communities (usually via community benefit societies, charities and cooperatives) and actually can prevent commercial owners buying it, when that is what the community wants (see below) if there is commercial interest. If a pub is no longer wanted by any operator or by the community, then it could go through the normal planning process, but it would give every historic pub the chance of a future and a year to be bought and to continue as a pub.

We urge the Government to implement this and stop the current endemic loss of viable, wanted and important pubs.

Yours sincerely,

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