

<b>Title of Report:</b>	<b>Closure of Public Houses – Response to Motion at Council</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	12th December 2013
<b>Forward Plan Ref:</b>	C2756

**Purpose of Report:** To provide a response to the Motion raised at the September Council meeting pertaining to the action the Council could take in relation to the potential closure of public houses.

**Recommended Action:** Members to agree the response to the motion.

**Reason for decision to be taken:** To respond to a motion submitted at the September 2013 Council meeting.

**Other options considered:** None

**Key background documentation:** Minutes of September Council  
West Berkshire Supplementary Planning Guidance No 19 Public Houses  
The Campaign for Real Ale – Public House Viability Test

The proposals contained in this report will help to achieve the following Council Strategy priority:

**CSP2 – Promoting a vibrant district**

The proposals will also help achieve the following Council Strategy principle:

**CSP7 - Empowering people and communities**

The proposals contained in this report will help to achieve the above Council Strategy priorities and principles by:

Empowering the local communities in West Berkshire to use the Localism Act to register their pubs on the Asset of Community Value Register.

<b>Portfolio Member Details</b>	
<b>Name &amp; Telephone No.:</b>	Councillor Hilary Cole - Tel (01635) 248542
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<b>Date Portfolio Member agreed report:</b>	21 <sup>st</sup> November 2013

<b>Contact Officer Details</b>	
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## Implications

**Policy:** Changes to Planning Policy can be made if required or desired through the Site Allocations and Delivery Development Plan Document provided enough evidence can be found to support such policies and the Planning Inspector agrees following the Public Examination.

No changes are needed to the Assets of Community Value process or the Local Heritage Listing process.

However, a large increase in the number of applications to both processes would have resourcing issues which could cause a delay in the processing of such applications.

**Financial:** No Comments

**Personnel:** Not Consulted as deemed not appropriate

**Legal/Procurement:** Under the Localism Act, requests to nominate an ACV must pass a test that it is "realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further ...the social wellbeing or social interests of the local community". The definition of "realistic" has been challenged and the ruling suggests that the term means - "more than fanciful". This is likely to be significant in the future.

**Property:** No Comments

**Risk Management:** Low

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Outcome</b> (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at <a href="http://www.westberks.gov.uk/eia">www.westberks.gov.uk/eia</a>			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>Is this item subject to call-in?</b>	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>

# Executive Summary

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## 1. Introduction

At the September meeting of the Council the motion (set out in the Executive Report 1.1) was approved for debate at the December Council meeting following discussion at the Planning Policy Task Group.

## 2. Proposals

- 2.1 The motion contains 7 proposals each of which is set out and responded to in detail in the body of the report, most of which the Council can support as it is already doing what the motion calls for.

## 3. Response to the Motion

- (1) Encourage and support communities to apply to list pubs as Assets of Community Value; - Partial AGREE The Council is already doing this as set out in section 3.
- (2) Ensure that pubs of historic or architectural interest, that currently lack a statutory designation, are included in the Council's Local Heritage Listing; - Partial AGREE The Council cannot "Ensure" but can encourage the West Berkshire Heritage Forum to nominate such establishments.
- (3) Promote and champion award winning local pubs; - AGREE The Council is already doing this as set out in section 4.
- (4) Lobby the Government to close the loopholes that currently, for example, allow the demolition of pubs, or their change of use to other commercial activities, without planning permission; - AGREE The Council is already doing this as set out in section 3.
- (5) Investigate the use of the CAMRA Public House Viability Test as a tool when considering planning applications involving pubs; - AGREE As set out in section 3 the PHVT would be suitable as one of the tools available to Development Control Officers
- (6) Lobby local MPs and other political representatives to support CAMRA's Fair Deal For Your Local campaign; - CAN'T AGREE it is not appropriate for the Council to be involved in this campaign, however members may support the campaign on an individual basis.
- (7) Lobby the Government to take measures to reduce the price differential for beer between pubs and supermarkets, for example by reducing the tax on beer, or introducing a minimum retail price." – Partial AGREE for the reasons set out in section 6 and 7.

## 4. Equalities Impact Assessment Outcomes

- 4.1 This item is not relevant to equality.

# Executive Report

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## 1. Introduction

- 1.1 At the September meeting of the Council the following motion was approved for debate at the December Council meeting “This Council believes that well-run public houses make a significant, positive contribution to the social and economic well being of communities. The decline in numbers of such pubs, especially in rural areas within West Berkshire, is therefore a matter of considerable regret.

This Council therefore resolves to use its powers and influence to support public houses in the following ways:

- (1) Encourage and support communities to apply to list pubs as Assets of Community Value;
- (2) Ensure that pubs of historic or architectural interest, that currently lack a statutory designation, are included in the Council’s Local Heritage Listing;
- (3) Promote and champion award winning local pubs;
- (4) Lobby the Government to close the loopholes that currently, for example, allow the demolition of pubs, or their change of use to other commercial activities, without planning permission;
- (5) Investigate the use of the CAMRA Public House Viability Test as a tool when considering planning applications involving pubs;
- (6) Lobby local MPs and other political representatives to support CAMRA's Fair Deal For Your Local campaign;
- (7) Lobby the Government to take measures to reduce the price differential for beer between pubs and supermarkets, for example by reducing the tax on beer, or introducing a minimum retail price.”

## 2. Background

- 2.1 There are currently 638 licensed premises in West Berkshire of which 151 can be regarded as pubs/bars. In the last five years (since January 2008) Licensing has determined 118 applications relating to the closure/renaming/reopening of public houses in West Berkshire. It should be noted that these applications can relate to the same building (the Bricklayers on Bartholomew Street, closed, renamed the Purple Lounge, closed again and then re-opened as the Newbury).
- 2.2 20 public houses in West Berkshire are currently considered as closed. Some have been lost to the residents of West Berkshire such as the Falcon Inn (Burghfield Road, Tadley (administratively in West Berkshire)) which has been demolished while others such as the Rising Sun in Burghfield Common have been converted into other uses. However, two pubs have also been brought back in use in the last two months - the George and Pelican (Bartholomew Street is now Bar Sport and the Tally Ho in Hungerford Newtown has reopened as a community pub following its' listing as a Asset of Community Value).

### **3. Current Procedures and Policies relating to planning issues**

- 3.1 The reform of planning with the introduction of the Localism Act, the National Planning Policy Framework and the further reforms announced regarding technical planning regulations has changed how applications for the closure or redevelopment of public houses can be treated.
- 3.2 Following the Localism Act 2011 which was enacted in 2012 the Council has set up a dedicated webpage to receive nominations for "Assets of Community Value" (ACV). This webpage contains details of who can make a nomination, how to submit an application and how the Council will process the application.
- 3.3 West Berkshire was one of the first councils in the South East to adopt the process and the first council in the region to list a public house as an ACV, the Tally Ho in Hungerford Newtown. CAMRA is currently running a campaign (The 300 Challenge) to get 300 pubs listed as ACVs by the end of 2013, of the 150 so far registered in England, West Berkshire has two: the Tally Ho, Hungerford Newtown and the Swan, Great Shefford.
- 3.4 The Council is therefore already supporting communities and listing pubs as Assets of Community Value.
- 3.5 However, due to the fact that the Council is also responsible for initially determining applications for inclusion on the ACV it cannot be seen to "encourage" as this might be construed as either an actual or merely implied bias and therefore represent a conflict of interest.
- 3.6 West Berkshire has also adopted a Local Listing Process (September 2012) and has undertaken training of local assessors. However, the local listing process is to be undertaken by the West Berkshire Heritage Forum and the Council will review their recommendations and either approve, refuse or ask for further work to be undertaken.
- 3.7 4 pubs in West Berkshire have been identified by CAMRA of being worthy of "Historical" or "Regional" recognition because of their interiors (only 270 nationally recognised) and would appear worthy of consideration by the West Berkshire Heritage Forum.
- 3.8 Since the local listing process is run by the West Berkshire Heritage Forum and not the Council, the Council cannot "Ensure" that pubs of historic or architectural interest, that currently lack a statutory designation, are included in the Council's Local Heritage Listing.
- 3.9 The CAMRA Public House Viability Test (PHVT) comprises a set of detailed questions under seven headings, the answers to which should resolve a bigger question "What could this business achieve, given a management dedicated to it, and with full discretion over stocking policy and type of operation"? However, this guidance is aimed at activists looking to respond to applications and local authority planners who do not have a local policy and require a degree of guidance around public house viability. It also needs to be National Planning Policy Framework Proofed.
- 3.10 The Council has an adopted Supplementary Planning Guidance No 19 Public Houses which although somewhat dated (it predates the PHVT) still provides

clarification and advice on the way the Council will deal with applications for redevelopment or change of use resulting in the loss of a public house. One of the stated aims of the guidance was "to safeguard the public house as a focus of community life". (SPG19 para 2.3)

- 3.11 Section 6 sets out the 4 criteria to be used in the assessment of applications for development resulting in the loss of a public house in West Berkshire together with other considerations. The PHVT merely expands on the West Berkshire Guidance by means of providing thought provoking questions.
- 3.12 It should be noted that there may be other viability models available and that the use of the PHVT as one of the tools available to Development Control Officers in the determination of any applications relating to the closure of a public house might be suitable.
- 3.13 The Coalition Government is determined to simplify the planning process and the publication of the NPPF was the first stage in this process. The Government has announced that it aims to consolidate the rules on permitted development to make them easier to understand, tackle unnecessary and overly burdensome requirements in the application process and scrap 38 redundant regulations.
- 3.14 The Council has (via the Planning Policy Task Group) responded to every consultation held on changes to the planning system and will continue to do so.
- 3.15 In addition to the land use planning processes above the Council has also been recognised for its pioneering work in community empowerment via community plans. Lots of the Adopted Parish Plans have sections on "Planning and Development" or "Social Environment" and if the local village pub is of importance to the local community then it is appropriate for it to be included under these or similar sections.

#### **4. Current Procedures and Policies relating to cultural issues**

- 4.1 There are a vast array of associations that run awards for pubs including; trade bodies, breweries, CAMRA and the Good Pub Guide at local, county, regional, super regional and national levels. These awards can be for the quality of the beer, the community spirit or family friendly nature of the establishment.
- 4.2 In addition Trading Standards run the "Responsible Retailer Award Scheme" which includes a number of pubs. Furthermore, the Visit Newbury web site includes a section on "Eat and Drink" which highlights the Vineyard and the Pot Kiln as first class places to eat on the home page before a secondary page on "Pubs, Bars and Inns" highlights a further 14.
- 4.3 Given the level of promotion for local pubs already available in West Berkshire, it is considered that the Council need take no further action to promote this single business area.

#### **5. Current Procedures and Policies relating to legal issues**

- 5.1 The Fair Deal for Your Local is a current CAMRA campaign aimed at changing the relationship between tied licensees and large pub companies so that it is beneficial to both the tenant and the pub company.

5.2 However, there are many other “overheads” concerned with the running of a public house that are independent of large pub companies and a significant number of “free houses” in West Berkshire are also struggling to keep open. It is therefore difficult to justify why the Council should support this campaign when viability is not just an issue for public houses.

## **6. Current Procedures and Policies relating to finance issues**

6.1 The Beer duty escalator has been an automatic tax on beer since 2008 set at +2% above inflation which has seen the amount of beer duty rise by 42%. However, in the 2013 budget the beer duty escalator was scrapped and a penny cut on the price of beer introduced. This was the first time that beer duty had been cut since 1959.

6.2 With regards to setting a differential rate for supermarkets and pubs relating to the sale of alcohol, there are many other supermarket activities that impact on other businesses in the area and especially in the rural parts of the district. Rural garages, newspaper/ grocery stores and even the local butcher have all had to adapt to the rise of the supermarket.

## **7. Current Procedures and Policies relating to health issues**

7.1 The introduction of a minimum price for alcohol has been shelved following consultation but remains under consideration the Government announced in July 2013.

7.2 The Health and Wellbeing Strategy aims to promote sensible drinking of alcohol and the introduction of a minimum price might assist in promoting this objective.

7.3 However, the motion before Council is concerned with the closure of pubs and it is unlikely that by itself a price differential for the sale of alcohol will reverse the decline of pubs.

## **8. Response to the Motion**

- (1) Encourage and support communities to apply to list pubs as Assets of Community Value;

The Council is already doing this as set out in section 3.

- (2) Ensure that pubs of historic or architectural interest, that currently lack a statutory designation, are included in the Council’s Local Heritage Listing;

The Council cannot "Ensure" but can encourage the West Berkshire Heritage Forum to nominate such establishments.

- (3) Promote and champion award winning local pubs;

The Council is already doing this as set out in section 4.

- (4) Lobby the Government to close the loopholes that currently, for example, allow the demolition of pubs, or their change of use to other commercial activities, without planning permission;

The Council is already doing this as set out in section 3.

- (5) Investigate the use of the CAMRA Public House Viability Test as a tool when considering planning applications involving pubs;

As set out in section 3 the PHVT would be suitable as one of the tools available to Development Control Officers

- (6) Lobby local MPs and other political representatives to support CAMRA's Fair Deal For Your Local campaign;

As set out in Section 5 it is not appropriate for the Council to support just one rural activity when other rural businesses are equally affected by supermarkets, however members may respond on an individual basis.

- (7) Lobby the Government to take measures to reduce the price differential for beer between pubs and supermarkets, for example by reducing the tax on beer, or introducing a minimum retail price."

As set out in section 6 and 7.

## **Appendices**

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There are no appendices to this report.

## **Consultees**

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**Local Stakeholders:** N/a

**Officers Consulted:** Andy Day, Gary Lugg, David Holling, Melanie Ellis, Gary Rayner, Steve Broughton, Lesley Wyman, Brian Leahy

**Trade Union:** N/a