
Overview and Scrutiny

Update: Preserving Lewisham's Pubs

Sustainable Development Select Committee

Spring 2019

Membership of the Sustainable Development Select Committee in 2018-19:

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Chair and Vice Chair's Introduction

Seven years ago, Lewisham Council's Sustainable Development Scrutiny Committee produced a ground-breaking report 'Preserving Local Pubs' that successfully put the case for strengthening local planning rules to protect the borough's pubs from demolition and redevelopment.

Although quite stringent, planning law, similarly to wider law can be open to different interpretations and, in time, developers have found ways to thwart the intention of the new rules, which were ultimately to prevent the loss of public houses.

In a nutshell, London's stratospheric property prices mean that many owners will be tempted to sell a public house for development. However, while all the public houses could be sold for housing, the report shows that the communities surrounding them would be culturally, socially and economically poorer.

And so, by 2018 the current committee decided to bring up to date the original and sound evidence base and invite witnesses that included a pub operator, community campaigners and the Campaign for Real Ale.

The strong evidence provided - that the remaining historic Lewisham pubs can be successful, from those who have done it or witnessed it - encouraged the committee to recommend a change in local rules that will effectively retain purpose-built pubs for what they were originally intended. The recommendation is intended to protect the public house without tying the hands of the owner and thus enabling them to adapt the pub to what the modern pub-goer expects and enjoys.

While we therefore strongly believe in the inherent value of pubs in their own right, they are also a key part of the evening and night time economy (ENTE). The ENTE is worth over £26.3bn to the London economy and provides employment to 1 in 8 London workers. Here in Lewisham we are keen to support the growing diversity of our own local evening and night-time economy and provide local work for our residents.

But, as we all know, the evening economy is not just about money and jobs, it can help balance our lives between work and fun, provide entertainment, education, places to celebrate and meet family and friends or fall in love. Pubs, cafes and bars can link the working day to the wider evening economy, for example providing places for office and creative workers to celebrate a contract win or say goodbye to a colleague.

They are often valuable meeting and eating places before going to see a film or a play and can themselves provide live music or other entertainment. In a time of pressure on retail centres, this bridging role can help our retail centres continue to thrive. And many places would feel desolate, unwelcoming and unsafe without pubs and an evening economy to bring people and bustle to a town centre.

Despite the smoking ban, cheap alcohol in supermarkets and other choices of entertainment available, there are many pubs thriving in Lewisham, run by operators who know how to make them a success and so people still to choose to visit our local borough pubs in their droves.

The 2012 report commented on how the charm, allure and attraction of British pubs is what has made them persist for centuries. So we thought it appropriate to re-present below, the Chair's introduction from the earlier report that ponders why the historic British pubs of Lewisham that have thrived for hundreds of years should continue to thrive for hundreds more.



Councillor Liam Curran
Chair of the Committee



Councillor Patrick Codd
Vice-Chair of the Committee

March 2019

Chair's 2012 Introduction

Pubs hold an undeniably significant and special position in the history, culture and economy of Britain. 600 years ago, the Tabard Inn in Southwark, just up the road from Lewisham and today commemorated by a blue plaque, played a key role as the gathering place for the pilgrims in the opening paragraphs of one of English literature's most famous works, Geoffrey Chaucer's *The Canterbury Tales*.

Before then, and ever since, the pub has featured in works of art that hold up a mirror to life; in literature, theatre, cinema and television. In contemporary culture there are countless examples that clearly demonstrate this but some random, famous ones would surely include: The Rovers Return in *Coronation Street*, The Queen Vic in *EastEnders*, The Woolpack in *Emmerdale*, the Bull in *The Archers*, The Slaughtered Lamb in *An American Werewolf in London* and The Nag's Head in *Only Fools and Horses*.

What is it then that makes a British pub? Why is it important? What does it do to have a hold on the imagination of natives and tourists alike?

First and foremost, if it does its job properly, it is a social hub; a gathering place where people of any background, colour, creed or class can meet, talk and socialize for 'the price of a pint'. This must be cherished in a time when people worry about 'community cohesion' and engaging with their neighbours. The pub can often go further in developing organized social interaction by providing a home for sports clubs, social clubs, community groups and charity fundraising.

It must have that almost indefinable quality of comfort and 'cosiness' where you can settle in for a chat with friends and family. It will inevitably have history as, many of the traditional pub buildings that remain in Lewisham are around a century old, built during the time of Queen Victoria or Edward VII and often a prominent, handsome building in our

thoroughfares. The pub plays a key economic role in the High Street – other businesses will often bemoan the loss of a pub because as soon as it goes, so do the customers who will visit the other shops in the parade. A good pub that's well run can also raise the character and feel of an area – there is no such thing as a bad pub, only a bad publican.

There is also clear evidence that many publicans that achieve that mixture with and run a very successful pub are still being forced out because, especially in London, the land that the pub stands on is worth more to the landowners through redevelopment for flats.

Lewisham has already seen the loss of nearly half its traditional pubs in the past decade, this report aims to suggest to the Mayor and Lewisham Council what can be done to prevent this unjustifiable loss and we would like to thank all those who gave evidence in compiling it.

600 years ago The Tabard Inn enabled diverse members of society to gather and socialize. There is no real reason why the remaining traditional pubs in Lewisham cannot enable the diverse residents of our borough to continue to meet, socialize and enjoy the richness of life for many more years to come.

Councillor Liam Curran
Chair of the Sustainable Development Select Committee

1. Purpose and structure of review

- 1.1. Preserving local pubs – a review by the Sustainable Development Select Committee was completed in 2012. The aim of the review was to examine information about pubs and to gather evidence about the role of pubs in local communities. The Committee was particularly interested in finding out:
 - Whether there had been a decline in the number of pubs and if so, whether the decline had been the result of identifiable factors.
 - Which of Lewisham’s pubs were located in historic buildings and where this was the case what was done to protect historic buildings.
 - What happened when a pub closed.
- 1.2. The Committee also wanted to determine what role the Council might play in protecting pubs and enhancing the role of pubs in the local area.
- 1.3. The Committee considered comprehensive written information from the Council’s planning team and further detailed evidence was received at Committee from:
 - Lewisham Council’s planning policy and licensing teams.
 - the Campaign for Real Ale (CAMRA)
 - the Fair Pint Campaign
 - the Antic pub group
 - the Grove Park community group
 - Voluntary Action Lewisham
- 1.4. The Committee’s intervention occurred at a key moment in the Council’s preparation of a new Development Management Local Plan and the resulting policy on public houses set a new high standard for protection of pubs in Lewisham and beyond.
- 1.5. When deciding on its work programme for 2018-19 the Committee agreed that it would carry out a single meeting review in order to revisit this important issue. The Committee was interested to understand how the situation in Lewisham had changed and whether there were matters requiring further consideration. This was considered particularly important because the Council is in the process of developing a new Local Plan, which will help to manage development and guide regeneration in the borough.
- 1.6. As with the 2012 review, the Committee drew on the work of the planning department to inform its work. The 2017 update to Lewisham’s pubs evidence base study provided a comprehensive analysis of the information available to the Council. This was supplemented by evidence at Committee from those who gave evidence to the original review.
- 1.7. In order to structure evidence from contributors during the evidence session, the Committee posed five key questions:
 1. Is it more sustainable in the long-term for a public house to retain all of its assets e.g. beer garden, car park, upstairs rooms for staff accommodation, bed and breakfast or function rooms?

2. What changes to planning regulations do you believe could be made in order to prevent the loss or partial loss of pubs?
 3. Do you believe it is possible to run a profitable pub business in London and why?
 4. What can the Council do to make running a public house easier?
 5. What are the contractual elements of being a pub tenant licensee that affect the success or otherwise of a public house?
- 1.8. At its meeting on 12 December 2018, alongside submissions of written evidence, the Committee heard from:
- Neil Pettigrew from the Campaign for Real Ale (CAMRA)
 - Mark Dodds (The Fair Pint Campaign)
 - Gary Mallen (A Lewisham publican)
 - Stephen Kenny (Grove Park Community Group, Baring Trust)
- 1.9. The Committee considered this evidence along with the update to the Lewisham planning department's 2012 'pubs evidence base study and agreed its recommendations in January 2019.

2. Findings, recommendations and response from the 2012 review

- 2.1. The purpose of this update is to build on the evidence and information gathered for the Committee's 2012 review. This section sets out the key findings from that review – as well as the Committee's recommendations and the responses to those recommendations from the Mayor of Lewisham:

Key finding 1: there has been a decline in the number of Lewisham pubs.

Pubs are in decline. The number of pubs in Lewisham has dropped significantly in the past 20 years. The picture is similar across the country, where pubs are closing in villages, towns and metropolitan centres. The reasons for the decline of local pubs are multiple. Changing lifestyles and demographics have had an impact. Beer, the traditional pub staple, is under pressure from new more cosmopolitan beverages and pubs find that they must adapt and diversify in order to stay in business. Beer taxes and the price of alcohol in supermarkets have also reduced the profitability of pubs. Most significantly, high residential and retail values often make premises more lucrative to developers and pub companies as flats or convenience stores than as pubs.

Key finding 2: pubs have a social and economic role in their communities.

Pubs often support community groups and local charities. As well as providing an informal space for communities to come together they may also provide more formal activities and entertainment, venues for hire and support for sporting groups. A well run pub has the potential to provide a locus for its neighbourhood and enhance the vitality of its locality.

Key finding 3: some Lewisham pubs are historic assets.

Pubs may be historic assets for an area and they can be in buildings of merit. Four Lewisham pubs are nationally listed and 12 are locally listed for their historic or architectural interest, age or rarity. Many other pubs in the borough are treasured by their communities regardless of official listing or special classification.

Key finding 4: pubs are only partially protected by recent changes to the planning process.

Communities have few means available to them if they choose to join together to protect their local pubs from development. Permitted development rights allow pubs to be changed in to shops without planning permission. Recent changes in planning policy at the national and regional levels have recognised the importance of pubs and create a platform for local communities, policy makers and planners to preserve community facilities. The Council's planning department recognises the benefit of well-managed pubs and officers are proposing new policy as part of the Development Management Development Plan Document (DMDPD) for cases in which planning permission is required.

Key finding 5: new licensing measures may have an impact on pubs.

Early morning restriction orders and the late night levy are two new licensing measures that Lewisham may look to implement. These measures may have an impact on pubs.

- 2.2. After considering the evidence for the review, the Committee made the following recommendations below. The response to the Committee's recommendations was

prepared by the Council's Planning Service and agreed at Mayor and Cabinet at its meeting on 5 December 2012. The responses are also set out below:

Recommendation 1: The Council should ensure that its economic viability test for pubs sets a new benchmark for best practice. The test should ensure that there is a high standard of evidence required to demonstrate the effective marketing of a pub before approval is given for demolition or change of use. The period of marketing to test economic viability should be increased to 36 months.

Response. The Planning Service is preparing a Development Management Local Plan (DMLP) that will set out a number of detailed policies to be used when considering planning applications. The Further Options Version of the DMLP was approved by the Mayor and Full Council for public consultation in November. The DMLP Further Options Version contains at option 19 the preferred policy option in relation to public houses. This recommended policy option is set out in full as appendix 1¹ to this report.

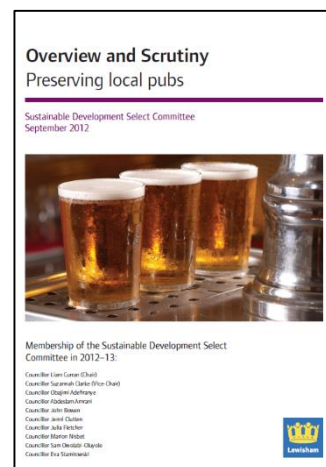
The preferred policy option seeks to protect viable pubs from a change of use and makes demonstrable evidence a central part of the policy. The policy requires an applicant to submit a viability report that demonstrates to the satisfaction of the Council that the pub is no longer economically viable. The policy tests demand a high standard of evidence from the applicant. The supporting text sets out what would need to be included in the viability report and this includes evidence of marketing for 36 months. Officers consider that this preferred policy represents best practice in requiring substantial evidence on viability and marketing.

Recommendation 2: The Council should update its register of community venues for hire to include available spaces in local pubs.

Response. The Head of Community and Neighbourhood Development will contact all Pubs in the borough and invite them to provide details of space for hire. The information provided will then be included on the register of venues for hire.

Recommendation 3: The Council is reviewing all local pubs to see whether they should be considered for local listing. Local residents and community groups are already entitled to put forward buildings for local listing but may not be aware that this is the case. The review should be widely publicized to make them aware of the process of applying for local listing. Where pubs do not meet the criteria for listing, the Council should assist communities in protecting local pubs from development. Officers should bring forward a range of further recommendations for enhancing the protection of the borough's landmark buildings through the planning system.

Response. Work on the local listing review has started by the planning service. A Development Management policy to protect pubs is being prepared as part of the emerging Development Management Local Plan.



¹ <http://councilmeetings.lewisham.gov.uk/documents/s19180/Responses%20to%20SDSC%20on%20Pubs.pdf>

Recommendation 4: The Development Management Development Plan Document (DMDDP) should include enhanced protection for pubs through its 'pubs policy'. Any new policy relating to pubs should be consulted on widely and brought before the Sustainable Development Select Committee for scrutiny before being approved. The new planning policy should assume a default protection for pubs both as a building and as a pub business with the onus on developers to prove why a particular building cannot any longer be a pub by using the following key sections from the National Planning Policy Framework 2012:

- Section 8, paragraph 70, which promotes social, recreational and cultural facilities and services, including pubs.
- Section 12, which seeks to conserve and enhance the historic environment.
- Paragraph 152 which seeks a balance to economic, social and environmental dimensions of sustainable development, with mitigations to negative impacts considered.

Response. The DMLP Further Options Version contains the preferred policy approach to the protection of local pubs. This is set out as appendix 1 to this report. Officers consider that the draft policy offers considerable protection for viable local pubs. The aspects of the National Planning Policy Framework mentioned in the committee's recommendation are included in the draft policy. The preferred policy is currently subject to public consultation in accordance with the adopted Statement of Community Involvement and statutory requirements for Local Plans. The Local Plan consultation list contains over 1000 addresses of local people, organisations and businesses who have been notified about the consultation. Advertisements were placed in the South London Press to give notice about the consultation and a web based consultation process is open to all. The consultation period will last until January 2013. Officers consider that the consultation process is extensive and goes well beyond the statutory minimum requirements.

The process for adopting a Local Plan as a statutory document requires that, after this initial consultation a final draft local plan is prepared taking into account all the representations made during this consultation period. The final draft plan is then subject to a further round of consultation and the comments made together with the draft plan are submitted to the Planning Inspectorate for an Independent Examination. The Inspector will submit a report to the Council following the Examination determining whether the plan is 'sound' and if not what changes are required to make it 'sound'. The council can only go onto adopt the Local Plan if it makes any changes needed to make it 'sound'.

The Mayor and Full Council will be required to approve the DMLP for submission for Examination. The Planning Service can report any revised pubs policy to the Select Committee prior to it going to the Mayor and Council for agreement to submit.

Recommendation 5: Local groups should be encouraged to submit their local pub to the list of 'assets of community value' when it becomes available.

Response. Information has been made available on the Lewisham website with regard to Assets of Community Value and how to make an application to the register.

Recommendation 6: The proposed changes to local licensing should be carefully examined to determine their potential impact on businesses in the borough. Where possible, pubs should be protected from additional bureaucracy or excessive financial burdens.

Response. The Police Reform and Social Responsibility Act 2011 has brought in significant amendments to the Licensing Act 2003. Two regulations which could significantly affect licensed premises are the Late Night Levy and the Early Morning Restriction Order (EMRO).

The Late Night Levy allows local authorities to levy an additional fee on premises that hold alcohol licenses between the hours of midnight and 6am. It is optional for the Authority to adopt this but if it does so it must apply the levy to the whole Borough. This levy is designed to raise money to pay for additional policing that may be required for the late night trade. The EMRO is designed to enable local authorities to designate certain areas where the sale of alcohol will be prohibited between the hours of midnight and 6am. (or hours within these limits)

Both of these policy options could have a major effect on the licensed trade, specifically pubs. The Levy could significantly increase annual fees and an EMRO could reduce income. These are both decisions that the Council has discretion whether to implement or not. As yet no decisions have been made and full consultation and policy adoption procedures have to be completed before either or both of these can be implemented.

It is acknowledged that either of these measures could have a serious effect on premises. Every effort will be made to ensure that any impact on pubs and other businesses is kept to the minimum possible

Recommendation 7: A further report on local pubs, including updated information relating to the recommendations set out in this report should be brought before the Sustainable Development Select Committee in the 2013/14 municipal year.

Response. The Mayors response to the Select Committee is set out above. Paragraph 6.12 (the response to recommendation four) sets out the Mayors commitment to consult the select committee on a final draft pubs policy prior to any agreement to submit the DMLP for Independent Examination.

3. Context update

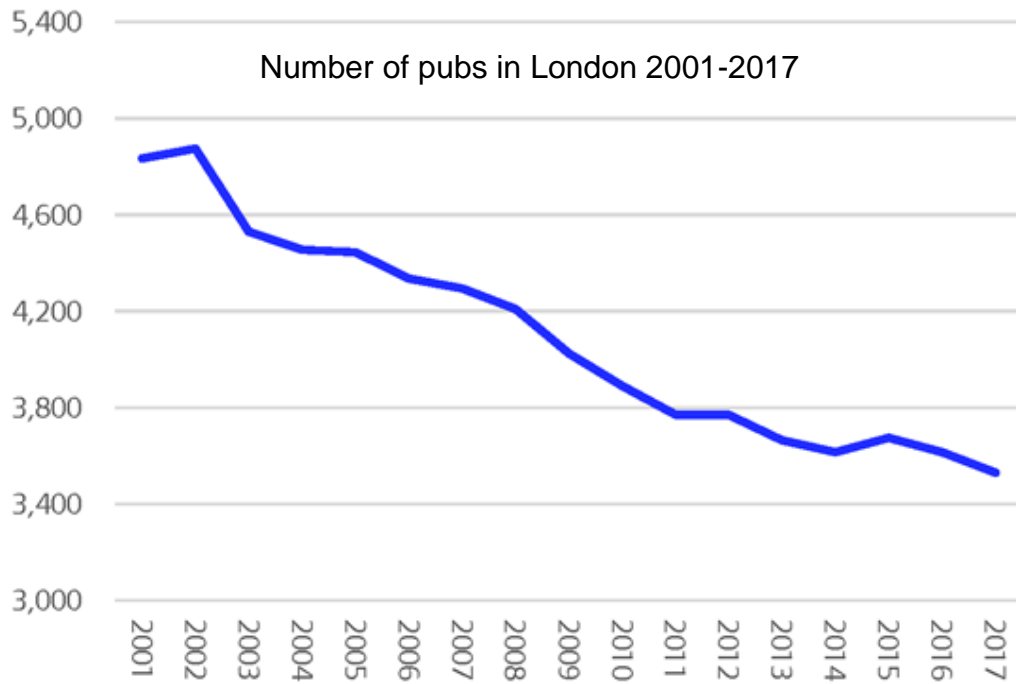
- 3.1. Across the country, the number of pubs continues to fall. Recent data from the Office for National Statistics² shows that since 2008 nearly a quarter of all pubs have closed. The reasons for this decline are mixed. There is evidence that some longer-term cultural factors are partly responsible, such as the increasing trend of socialising and relaxing at home; the increasing variety and availability of other entertainment and pastimes, an overall decline in alcohol consumption and the ban on smoking.
- 3.2. It is clear that economic factors are also responsible for the decline. The 2008 recession; the burden of taxation³ and the intense pressure on space for development across the country, particularly in London have all contributed to the fall in pub numbers. Tough tenancy agreements from corporate pub landlords are believed to be key in reducing profitability to licensees and tenants. If the pub fails as a result, the corporate pub landlord stands to make a significant financial profit from the sale of the pub for development for housing.
- 3.3. Positive steps have also been taken to protect pubs. The Neighbourhood Planning Act (2017)⁴ removed the right of owners to demolish a pub building or change its use without prior consent. This means that planning permission is required before a pub can be demolished or its usage can be changed.
- 3.4. There has been a steep decline in the number of pubs in London. Accordingly, the Mayor of London has committed to protecting pubs through the new London Plan. The draft plan includes a policy on protecting pubs; it also establishes the 'agent of change' principle to protect pubs from new development.

² ONS (2018) Economies of ale: small pubs close as chains focus on big bars:

<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/articles/economiesofalesmallpubscloseaschainsfocusonbigbars/2018-11-26>

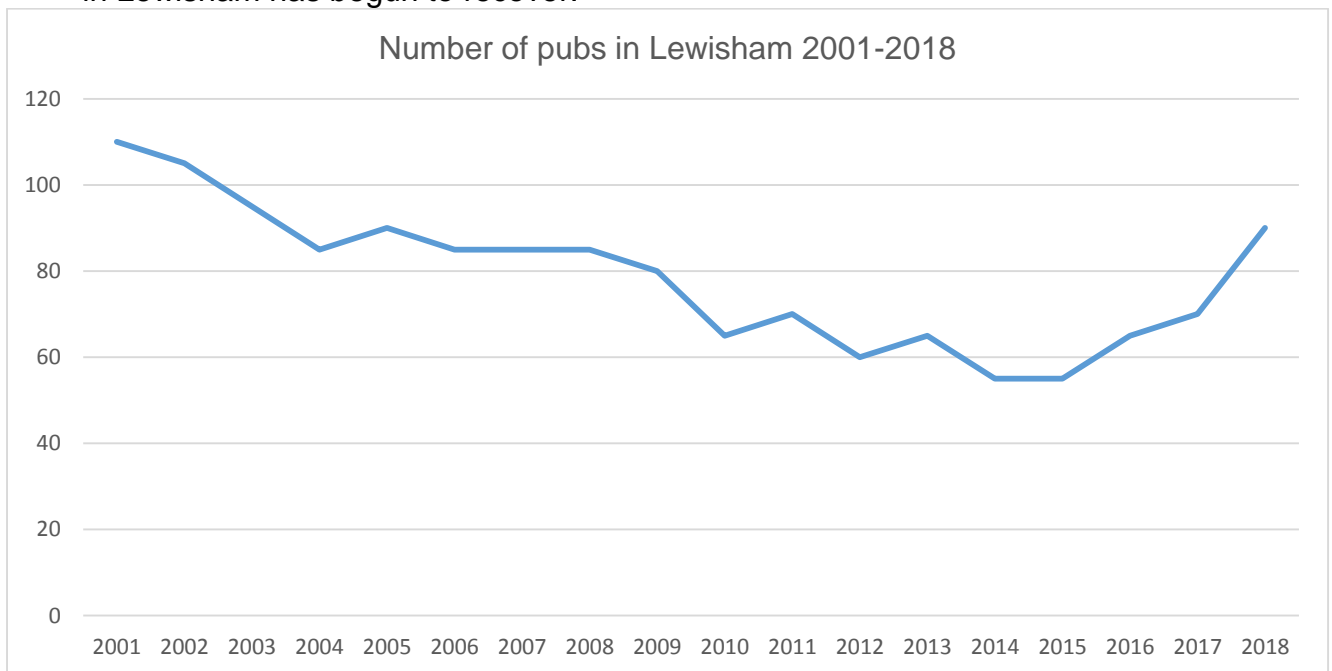
³ BBC (2018) Pubs closing at a rate of 18 a week as people stay home: <https://www.bbc.co.uk/news/business-45086080>

⁴ Neighbourhood Planning Act (2017): <http://www.legislation.gov.uk/ukpga/2017/20/contents/enacted>



(Source: London Data Store: London Pubs Audit 2018)

3.5. Figures from the ONS indicate that, following a period of decline, the number of pubs in Lewisham has begun to recover:



(Source: ONS 2018)

3.6. Moreover, the ONS figures suggest that, after a period of decline, the number of people employed in Lewisham’s pub trade has also recovered. Nonetheless, past evidence indicates that these numbers are subject to change and there are so few pubs in Lewisham that any further significant decline would push the trade close to disappearance.

3.7. Lewisham Council is in the process of developing a new local plan, which will manage development in the borough for the next five years and establish its future direction.

As such, close consideration is being given to the character of Lewisham's neighbourhoods and the evidence upon which the Council will base future decisions. The 2017 update to the Planning Services' evidence base study was welcomed by the Committee – as was the reiteration of its acknowledgement of the importance of pubs. The update refreshed the evidence base for Lewisham's pubs policy and examined its past effectiveness.

- 3.8. The Sustainable Development Select Committee wants to build on its previous work to ensure that the pub trade in Lewisham remains viable. The evidence it gathered in its previous review about the importance of pubs as cultural and community assets remains current. The Committee also believes that retaining the historical and architectural value of Lewisham's remaining pubs for the future is of fundamental importance.

4. Findings

- 4.1. At the meeting of Sustainable Development Select Committee on 12 December 2018, Members heard from witnesses about the challenges and opportunities facing Lewisham's pubs. The Committee also considered the written evidence that had been submitted to the review.

Pubs under threat of development

'Pub closures have nothing to do with lack of financial viability or people not wanting to visit them. The chief reason for a pub closing is that it will almost always be more attractive financially to replace it with residential accommodation. Very few pubs can compete with the way that property prices have risen over the last two decades.'
(From the written submission by Neil Pettigrew of CAMRA)

- 4.2. The intense pressure on space for development in London is having a detrimental impact on the pub trade. The Committee heard from Stephen Kenny (Chair of the Baring Hall Trust/Grove Park Neighbourhood Forum) who spoke on behalf of the Baring Trust (which is a community group working to preserve the Baring Hall Hotel pub in Grove Park). At the time of the Committee's previous review, the Baring Hall Hotel was locally listed and included on the Council's register of assets of community value. However, despite these protections being in place the pub is still under threat of development.
- 4.3. Even pubs with recognised historic and architectural value are at risk. Plans for demolition of Baring Hall Hotel pub were submitted in 2011 along with proposals to build commercial space and flats on the site. These plans were refused by the Council and an article four direction, removing permitted development rights to demolish the building, was agreed by the Mayor. The building was also locally listed due to its historic and architectural merit.
- 4.4. Historic England decided to list⁵ the Baring Hall Hotel in 2018 due to the pub's architectural interest: '...as a restrained, carefully-proportioned and eloquent rendering of the 'Queen Anne' style' and its historic interest: '...as a significant early work within the Grove Park suburb undertaken independently by Ernest Newton, one of the most important domestic architects of the late C19 and early C20'. This recognition, and the associated statutory protection, by Historic England years after the imminent demolition of the pub highlighted to the Committee the precarious position faced by some of Lewisham's most important historic and architectural assets.
- 4.5. Despite the protections in place for the Baring Hall Hotel, the threat of development on the site remains ever present. This relates not only to the pub itself, but also to the space above and around the pub. The Committee is concerned that many of Lewisham's other historic pubs also face the threat of demolition or unsympathetic building on adjoining sites.

⁵ Historic England, Baring Hall Hotel listing: <https://historicengland.org.uk/listing/the-list/list-entry/1456451>

Taking account of pubs' assets

- 4.6. Gardens, kitchens, accommodation for staff, function rooms, parking, cellars and storage spaces are often vital assets for pub businesses. The cost of renting in London means that accommodation above the pub can be a key help in retaining staff while having them live 'above the shop' can benefit the running of the business. The potential loss of the Baring Hall hotel to demolition and development has encouraged its supporters to ensure that all of the space around the pub is protected, as well as the pub building itself. The Mayor of London recognises the importance of pub assets in the draft London plan (Policy HC7):

'Many pubs built on more than one floor include ancillary uses such as function rooms and staff accommodation. Potential profit from development makes the conversion of upper pub floors to residential use extremely attractive to owners. Beer gardens and other outside space are also at risk of loss to residential development. The change to residential use of these areas can limit the operational flexibility of the pub, make it less attractive to customers, and prevent ancillary spaces being used by the local community. It can also threaten the viability of a pub through increased complaints about noise and other issues from new residents. Boroughs are encouraged to resist such proposals or ensure developers put in place measures that would mitigate the impacts of noise for new and subsequent residents.' (Draft London plan 2019⁶)

- 4.7. Permission to develop a pub's ancillary space is likely to limit the future operation of the business. The Committee heard that the viability of a pub business should be of primary importance in any consideration of development in or around a pub building or in close vicinity. The Committee recognises that even with protections in place against development successful businesses are sometimes subject to unsympathetic proposals for adjoining development. It heard from Neil Pettigrew of CAMRA that there had been a number of cases in London when new housing near to a well-established pub forced the pub to reduce its opening hours, which ultimately affected the viability of the business.

'...to compete in the modern market it is now absolutely essential for the pub, that it has the benefit of all its original assets, often creatively contemporised, along with an operation providing, well marketed, quality and variety.
(From written evidence submitted by a Lewisham Publican to the review)

- 4.8. To compete for customers, who have a choice of coffee shops, bars and restaurants, pubs need to retain their assets so they can diversify. The incremental reduction of ancillary spaces and supporting infrastructure for a pub business is likely to threaten the viability of the business over time.

⁶ Draft London plan 2019, policy HC7, online at: <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/draft-new-london-plan/chapter-7-heritage-and-culture/policy-hc7-protecting-public>

The viability of pub businesses

‘Some of the best examples of successful pubs in London are those that were not economically viable and have been taken over by new operators and turned the pub into a successful business and a community asset.’

(From a written submission to the review by a Lewisham publican)

4.9. There is demand for good quality pubs. The Committee heard from Gary Mallen, a London publican who operates a pub in Lewisham. He reported that it was possible to run successful pub businesses in London, even in pubs that had previously be poorly run or that had suffered from underinvestment. His view was that every public house in Lewisham could be run at a profit. Mr Mallen said that community focus and quality service were two of the key attributes of running a successful pub – and that there were often options for failing businesses to be re-shaped and turned around. Mr Mallen had taken over a failing pub, the Lord Northbrook in Lee which had previously been named as the ‘worst pub in south east London’ by a local paper. Mr Mallen had turned the pub into a popular and profitable venue and sold it to another pub operator who saw the value of this once-failing pub. The Committee noted the importance that Mr Mallen had attached to broadening the appeal of pubs to the whole community, including families.

4.10. As a result of the protections put in place by the Council, as well as the enhanced protections provided by law, when a pub closes it cannot be developed into housing immediately. The leading recommendation from the Committee’s 2012 review was that a pub business should be marketed for 36 months before any application for redevelopment could be considered. If a developer puts forward a proposal for the development of a pub, it is required to provide:

‘a viability report that demonstrates to the Council's satisfaction that the public house is no longer economically viable, including the length of time the public house has been vacant, evidenced by the applicant of active and appropriate marketing for a constant period of at least 36 months at the existing use value.’ (Pubs in Lewisham evidence base study 2017)

4.11. However, there is concern that the financial incentives for developers to change pubs into housing are such that developers can absorb the costs of running down a pub business and leaving it vacant leaving a community to conclude that the pub is financially unviable. Property companies and large pub landlords that have large numbers of buildings in their portfolios might be in a particularly strong position to do this:

‘Not only is there an incentive for them in general to do this, most pub companies are sufficiently financially substantial to be able withstand the closure and oversee the decline of a pub and incur the financial loss, until it is demonstrably not viable. This is clearly very difficult to combat.’ (From written evidence submitted to the review by a Lewisham publican)

4.12. The assessment of the viability of a pub business in a planning application is not straightforward. Given that there is an advantage to a developer in demonstrating that a business is not viable there is an incentive for them to overlook opportunities to

make a business successful and to find ways to draw in the local community. The protection for pubs provided by planning committees is only as strong as the evidence that is considered by the Committee:

‘By default, when a pub is in front of a planning committee it has already been run down through decades of chronic lack of investment. If it’s still trading the business is under stress; under threat of failure.’ (From written evidence submitted by Mark Dodds to the review)

- 4.13. Planning committees need to be assured that a fair assessment has been made of the price of a pub business and that sufficiently robust marketing has been carried out – before they consider any proposals for change of use or redevelopment. The Council’s existing policy requires sufficient marketing and evidence that conditions have not been created to run down a pub business so that it can be closed.
- 4.14. In a number of cases, justification is given for the development of a pub because it retains part of the existing business – or because it will re-provide bar space on the redeveloped site. However, the Committee heard that new pub developments did not always include space for kitchens/serving food or for other facilities, including storage or outdoor space. This is particularly the case for developments below new flats or other accommodation because the viability and attractiveness of the new housing is considered more important than the new ‘pub’. The benefits of an established pub to its community are well established. The notional inclusion of a space for a bar/serving drinks in a new development (one example was given of a hotel lobby with a bar replacing an established pub), without sufficient ancillary spaces cannot replace an established pub businesses.
- 4.15. It is clear that each business/development will be different and that there is no set formula for the amount of space that should be provided to run a viable business. However, the Committee believes that applications that propose the inclusion of a new pub should include an indicative layout of the space that would be provided in the new development in order to ensure that the pub can operate as a viable business and serve as a place for the community to come together.

The future of Lewisham’s pubs

- 4.16. The number of pubs in London has declined significantly. Some have been lost due to changes in tastes and culture however, the high cost of housing means that there is a significant incentive for developers to close pubs make short-term gains. Lewisham’s pubs evidence base study includes a per capita analysis of the number of pubs in Lewisham which suggests that the number of pubs in the borough is sustainable. The Committee has also heard that with investment and effective management pub businesses can be made successful.

‘Anyone who has visited a pub will know that it does far more than just serve alcohol. They are a place where members of the local community – from all walks of life - can meet and interact.’ (From written evidence submitted to the review by CAMRA)

- 4.17. A number of important changes have come into place since the introduction of the Council’s (2012) policy on protecting pubs. The law has been changed, which means

that any proposal for the demolition or change of use of a pub is subject to planning permission. In addition, the Mayor of London has expressed his support for pubs and he intends to include policies in the new London plan that protect pubs and their assets from development. The London Plan will also include a policy protecting established pubs from retrospective complaints from new development.

- 4.18. In 2012, Lewisham established a strong policy for protecting pubs and it led the way in ensuring that there was sufficient marketing of businesses before they could be redeveloped. The Council's 2017 review found that the policy on protecting pubs seemed to be sufficiently robust to ensure that viable businesses were protected from redevelopment. However, it also highlighted the requirement to protect pubs' ancillary spaces to ensure the ongoing viability of established businesses. It has been proposed that additional criteria is included in the Council's development management policies:

The Council will not accept any proposal, within the ancillary use of a public house, or above and adjacent to a public house, that will restrict its full operation as a public house, jeopardising its function as a business. The responsibility is on the new development to mitigate any potential conflict with the public house that restricts its operation, such as noise.' (Lewisham evidence base study - 2017)

- 4.19. Nonetheless, evidence submitted to the Committee suggests that Lewisham's pubs are still at threat from development. For Lewisham's pub trade to have a future and to maintain the borough's pubs as historic and cultural assets further decisive action must be taken.

5. New recommendations

The following recommendations were agreed at the Committee's meeting on 4 March 2019. The Committee recommends that Lewisham's new Local Plan should include the following:

A section that provides automatic protection from redevelopment for all purpose-built pubs built in the 20th century and before. The wording should make clear that all the ancillary parts of the pub including beer gardens, function rooms, car parks, kitchens, cellars and accommodation above should be retained in order to maximise the opportunity to successfully run a pub business. This should also exclude the developer from converting the accommodation above to flats for sale or rent. While protecting the ancillary assets from housing development, the section should be sufficiently flexible to allow the owner to vary the use of the asset, so long as it can be demonstrated that the changes will assist in benefiting the use of the building as a public house.

This section is compliant with Mayor of London's new Draft London Plan policy HC7 C: "Development proposals for redevelopment of associated accommodation, facilities or development within the curtilage of the public house that would compromise the operation or viability of the public house use should be resisted"

Agent of Change Principle

The introduction of the 'Agent of Change' principle in the Draft Culture and the Night Time Economy SPG by the Mayor of London highlights the importance of protecting venues such as pubs, ensuring any new development adjacent, or above, does not restrict its offering as a business.

In order to apply the agent of change principle thoroughly, it is important to make sure the new developer has fully considered the noise at all times of day; people leaving the pub late at night, not just the "noise" emanating from within the pub; potential future noise; consulted properly with the existing publican; installed the right measures; potentially redesigning the layout of the new building to ensure the pub's business is not impacted by noise complaints.

The Mayor of London's latest guidance is contained in the London Plan (2019) policy D12 – Agent of Change. Online at:

<https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/draft-new-london-plan/chapter-3-design/policy-d12-agent-change>

The Council can then adopt the following:

- A. The Agent of Change principle places the responsibility for mitigating impacts from existing noise-generating activities or uses on a proposed new noise-sensitive development.
- B. Lewisham Council should therefore ensure that planning decisions reflect the Agent of Change principle and take account of existing noise-generating uses in a sensitive manner when new development, particularly residential, is proposed nearby.
- C. Development proposals should manage noise and other potential nuisances by:

1. ensuring good acoustic design to mitigate and minimise existing and potential impacts of noise generated by existing uses located in the area
 2. exploring mitigation measures early in the design stage, with necessary and appropriate provisions secured through planning obligations
 3. separating new noise-sensitive development where possible from existing noise-generating businesses through distance, screening, internal layout, sound-proofing and insulation, and other acoustic design measures.
- D. Development should be designed to ensure that established noise-generating venues remain viable and can continue or grow without unreasonable restrictions being placed on them.
- E. New noise-generating development, such as industrial uses, music venues, pubs, rail infrastructure, schools and sporting venues proposed close to residential and other noise-sensitive development should put in place measures such as soundproofing to mitigate and manage any noise impacts for neighbouring residents and businesses.
- F. Lewisham Council should refuse development proposals that have not clearly demonstrated how noise impacts will be mitigated and managed.

In addition the committee recommends that the Local Plan should be reviewed to include the possibility of:

- a) A mechanism to reduce business rates for public houses under certain circumstances.
- b) An investigation into how bureaucracy can be reduced in order to help pubs thrive

6. Monitoring and ongoing scrutiny

- 6.1. This review will and its recommendations will be submitted to Mayor and Cabinet for consideration and response. The Council's constitution provides that the scrutiny committees should receive responses to their referrals within two months.
- 6.2. The Committee will consider its work programme for 2019-20 at the first meeting of the new municipal year, which is provisionally scheduled for April 2019. In 2018-19, the Committee has considered a standing item on the development of Lewisham's new Local Plan. When deciding on its new work programme, the Committee might decide to continue to receive these updates. This would enable the Committee to track the progress of the recommendations it has made in relation to the development of the new plan.
- 6.3. As part of its annual work programme for 2018-19 an item will be added to the Committee's agenda in September to include a six-month update on the implementation of the recommendations. Improvement of the night-time economy was also raised as an issue of importance by Members of the Committee in 2018-19. In next year's work programme, Committee might decide to carry out a broader piece of work on the viability and sustainability of the night-time economy in Lewisham.

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