

Summary of Consultation Responses – Public Houses Issues and Options.

Do you agree that the Council should amend policies within the Core Strategy to try to resist the loss of public houses within the Borough?

- 63% of the respondents agreed (32 responses):

Radnor Walk Residents' Association (Peter J BULL)	Anthony Paul	Bernier
CrystalNet (A Page)	Clive Wilson	ESSA (Anthony Walker)
Geoffrey Davies	Susan Walker Architects (Susan Walker)	Physic Triangle Residents Association (Margaret Thompson)
Kings Road Association of Chelsea Residents (James Thompson)	Brompton Association (Ms Whewell)	Mel Richardson
Moya Denman	Andrew Reeves Estate Agents (Reeves)	Nigel Gwilliams
Phillida Purvis	Marshall Land & Property Associates LLP (Hugh Marshall)	Jubilee Place Residents' Association (PCM Greig)
Shawfield Street Residents' Association (Anthony Close-Smith)	Barry Winkleman	Charles Hopkins
Toby Poynder	Paul Lever	Tonya Hoffman (Tonya Hoffman)
Geoff Allan	Golborne Forum (Susie Parsons)	McVittie
John Cooper	Lebus	Edd de Burgh Codrington
The Kensington Society (Michael Bach)	The Campaign for Real Ale (CAMRA) (Geoff Strawbridge)	

- 10% disagreed (5):

Christine Morrissey	Belinda Bekhiet	RAB Pension Trust (RAB)
Savills (Thomas Edmunds)	Cadogan Estates Ltd (Kathy MacEwen)	

- 6% chose other (3):

Frank Busby	CAMRA West London branch (Paul Charlton)	Osra (John Fitzgerald)
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- 21% did not respond to this question (11):

English Heritage	St Helens Residents Association (Henry Peterson)	Joanna Gardner
The Royal College of Art (Paul Warwick Thompson)	TB Wynne	Felicity Sheepshanks
Jon Thorn	Royal Crescent Association (Kitty Mason)	Jeremy Stone
Philip Roberts		

Please type your answer here if you selected 'Other' (please specify) above or have another comment to make

-There is the general view that the high prices of residential properties in the Borough represent a risk to pubs, and other uses valuable for the community, being gradually lost. (*Brompton Association*)(*Edd de Burgh Codrington*)(*John Cooper*)

Council response

This is considered in the document as one of the issues that triggered the need for a policy to protect pubs

Pubs are generally accepted as positively contributing to the character of the area and to the community (*Brompton Association*) (*CAMRA*)(*CrystalNet*) (*The Royal College of Art*), and there is the view that there are not enough pubs in K&C (*Barry Winkleman*), and that there are not many genuine traditional pubs left in London (*Geoff Allan*). Together with bars, cafés and restaurants, they are viewed as contributors to the vibrancy and vitality of the high street (*Golborne Forum*). Pubs represent an inexpensive social focus (*Barry Winkleman*) and they are essential for shoppers (*Barry Winkleman*).

Council response

Pubs are recognised in the Core Strategy and the NPPF as community facilities that, together with other users, offer valued meeting points and contribute positively to the vitality of town centres.

The Use Classes Order 1987 (as amended) is perceived as inadequate in allowing no opportunity for consultation when owners decide to convert a pub into another A class use (*CAMRA*). There is a concern that family pubs are becoming expensive restaurants (*Frank Busby*), which cannot be controlled through the Planning mechanisms. To reiterate on the insufficiency of the legislation, only methods devised to protect the change of use when planning permission is not required would be seen as effective (*John Fitzgerald*).

Council response

Changes within the same use class or from a drinking establishment (Class A4) to another A class use do not require planning permission, unless Article 4 directions are made to remove the permitted development rights. However, the Council would be liable to pay considerable compensation as it would not merely relate to the cost of making the application, but also to the difference in value between the public house and the refused use. This option is not considered realistic.

There is a request for a clear definition of what it is considered to be a predominantly drinking establishment. *CAMRA* suggests the following: 'The licensed premises must sell at least one draught beer, not require food to be consumed in order to drink, have an area set aside for drinkers which does not rely on table service, and have no entry charge (except on limited occasions when entertainment is provided).'

Council response

The Use Classes are clearly defined in The Town and Country Planning (Use Classes) Order

1987 (as amended). The definition of drinking establishment does not seem necessary as the change to another use that falls within the same Use Class is not considered to be development.

The loss of pubs is not in line with NPPF: Section 70 states that LPAs should ‘guard against unnecessary loss of valued facilities where they would reduce the community’s ability to meet its day-to-day needs’. Section 200 of the NPPF confirms that Article 4 Directions, as explained at 4.5 in the consultation document, may be used to protect local amenities or the well-being of the area and states specifically (if the threatened building is covered by a local planning policy (e.g. a pub is classified as an important community facility), then serving Article 4 Directions should not give rise to compensation claims) (*CAMRA*)

Council response

As stated in paragraph 200 of the NPPF, Article 4 directions should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. By protecting all A class uses, where the facility acts as a community facility and/or contributes to the character or appearance of the area, the Council wishes to ensure that drinking and eating facilities are protected and not converted into other more profitable uses outside the A class. This would not prevent public houses being converted into other type of drinking establishment or to an eating establishment, but there is no reason why drinking premises should be given priority over eating premises. They all represent different valuable community roles and by protecting them all we guarantee the policy impacts equally on the community, and it does not benefit a particular group.

NPPF considers public houses as community facilities that, together with other users, offer valued meeting points and contribute positively to the vitality of town centres. It requires Local Authorities to “guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs” making specific reference to public houses (paragraph 70, pg. 17). This changed emphasis warrants reconsideration of policy.

On the other hand, there is a concern that pubs rarely meet the need or interests of the local community but more those of the modern clientele, which are not local to the area, and display little respect for the area and its neighbours. (*Belinda Bekhiet*). Additionally, the decline in the number of pubs seems to be something that happened in the past and not a current issue (*Christine Morrissey*).

Council response

The management of a public house (or of any other eating or drinking establishment), including the type of clientele, is not a Planning issue, and therefore not something that the Council has control over. In general, public houses, as well as cafes, bars and restaurants are considered establishments that are valuable for the community. If they managed properly, they should not normally pose a threat to residential amenity.

The issue of the decline in public houses and therefore the need for the review of the policy have arisen as a result of the cumulative impact over the years and not the rate of loss of the last few years. Public houses continue to be lost to other uses and that makes it a current problem.

The preferred option

Option One

The Council should resist the loss of Class A4 uses (drinking establishments including public houses) across the Borough where a public house acts as a community facility and/or contributes to the character or appearance of the area.

Option Two

The Council should resist the loss of loss of Class A4 uses (drinking establishments including public houses) and Class A3 uses (restaurants and cafes) across the Borough where the facility acts as a community facility and/or contributes to the character or appearance of the area.

Option Three

In consultation with residents groups, land owners and other interested stakeholders, the Council will draw up a list of public houses which it would like to see protected. The loss of any public houses on this list will be resisted.

Option Four

The Council should resist the loss of all A Class uses where the facility acts as a community facility and/or contributes to the character or appearance of the area.

20% (10) of the respondents chose option one, 6% (3) chose option two, 12% (6) option three and 48% (25) option four. 14% (7) of the respondents chose other alternative not specified as an option.

Option one	Option two	Option three	Option four		Other
- Anthony Paul	- Andrew Reeves	- Bernier	- Charles Hopkins	- Shawfield Street	- Belinda Bekhiet
- Barry Winkleman	- Estate Agents (Reeves)	- Geoff Allan	- Christine Morrissey	- Residents' Association (Anthony Close-Smith)	- Cadogan Estates Ltd (Kathy MacEwen)
- Brompton Association (Ms Whewell)	- McVittie	- Lebus	- Clive Wilson	- St Helens Residents Association (Henry Peterson)	- Golborne Forum (Susie Parsons)
- CAMRA West London branch (Paul Charlton)	- Tonya Hoffman (Tonya Hoffman)	- Marshall Land & Property Associates LLP (Hugh Marshall)	- CrystalNet (A Page)	- Susan Walker Architects (Susan Walker)	- RAB Pension Trust (RAB)
- Edd de Burgh		- Osra (John Fitzgerald)	- ESSA (Anthony Walker)	- TB Wynne	- Savills (Thomas Edmunds)
- Codrington		- Radnor Walk Residents' Association (Peter J BULL)	- Felicity Sheepshanks	- The Kensington Society (Michael Bach)	- English Heritage
- Frank busby			- Geoffrey Davies	- Toby Poynder	- The Royal College of Art (Paul Warwick Thompson)
- Mel Richardson			- Jeremy Stone	- Joanna Gardner	
- Nigel Gwilliams			- Kings Road Association of Chelsea Residents (James Thompson)	- John Cooper	
- Phillida Purvis			- Moya Denman	- Jon Thorn	
- The Campaign for Real Ale (CAMRA) (Geoff Strawbridge)			- Paul Lever	- Jubilee Place Residents' Association (PCM Greig)	
			- Philip Roberts		
			- Physic Triangle Residents Association (Margaret Thompson)		
			- Royal Crescent Association (Kitty Mason)		

Please type your answer here if you selected 'Other' (please specify) above or have another comment to make in relation to the options on offer

A principal concern for responses in this section is the lack of a clear mechanism to identify when pubs would be considered as a community facility and/or contribute to the character or appearance of the area (*RAB pension trust*) (*Joanna Gardner*) (*RAB Pension Trust*); or the process in which a public house will be added to the list (*Cadogan Estates Ltd.*) This list could create uncertainty for landowners and discourage investment in this land use, and also lead to substantially different standards in different parts of the Borough, particularly in areas not represented by local amenity groups (*ESSA*). Although selecting a list is supported by some (*John Fitzgerald*).

Council response

The Council considers that public houses fulfil a variety of functions, but they are principally a place to meet. This criteria is met but all public houses, and therefore not exceptions will be made.

To prevent the protection of 'listed' public houses and being seen to favour some members of the community over others, we feel the protection of all Class A uses is a fair option.

It is suggested that pubs that are considered a community facility and/or contributors to the character or appearance of the area are added to the 'Assets of Community Value' list through the Localism Bill (*Cadogan Estates Ltd.*).

Council response

We have noted this is listed in the Localism Bill and the NPPF, however this is not a mechanism that can be used to protect public houses. *Assets of Community Value* allows communities to identify buildings they believe to be important in their community and if they were to come up for sale then they would be given a fair chance to make a bid. This does not have any relevance to the policy the Council intend to introduce.

There is a concern that the document has failed to recognize the potential for pubs to harm the area (*RAB Pension Trust*), and the fact that unlike other community uses, the pattern of activities of pubs does not resemble those of when they were first established. (*RAB Pension Trust*).

Council response

The Council considers that public houses are meeting the needs of today's community and facilitate community values in the same way they did when they were first established. They still act as places for people to meet and socialise. The Council understands they may not replicate past activities exactly as the past however, but the life of public houses is constantly evolving in any case. Harm to neighbouring residents resulting from noise and disturbance should generally be dealt with using robust private management, licensing controls and the Environmental Protection Act.

As an alternative to having a policy that protects pubs, each application should be considered on its merits (*Belinda Bekhiet*) (*Cadogan Estates Ltd.*). A more relaxed approach to isolated pubs is requested, as these can lead to amenity or viability issues (*Joanna Gardner*).

Council response

By protecting all A Class uses, the risk of public houses being converted into other A Class uses and then on to more profitable uses, such as housing, is reduced. We feel that both isolated public houses and those in town centres should benefit from the same level of protection and there is no justification for protecting public houses in certain areas over others.

There is little or no evidence that cafes and other eating establishments are declining (*Brompton Association*) (*CAMRA*), so need to protect them. It is considered inappropriate to protect hot food/takeaway establishments (*Cadogan Estates Ltd.*).

Council response

This option is not based on evidence that suggests cafes and other drinking establishments are in decline, rather that the Council does not want to favour those members of the community that prefer the option of a public house over other members of the community that would prefer a wine bar, a cafe, or a restaurant. There is no intention of protecting takeaways. If option four was going to be taken forward, then it would be specified that only A1 to A4 uses would be protected.

The loss of pubs since publication of the Core Strategy, which is what is being reviewed, is not considered significant and it is dominated by factors outside the Planning control (*Christine Morrissey*) " (*Cadogan Estates Ltd*) (*RAB Pension Trust*) (*Savills*).

Council response

Despite the loss not being significant since the publication of the Core Strategy, the Council has reviewed the cumulative effect of the loss of public houses over the longer term and beyond the implementation of the Core Strategy. It is in the Council's interest to monitor the effectiveness of its policies. The cumulative loss of public houses over the last decade has been significant.

The proposed policies restrict the flexibility of the land further and might discourage investment and limit the ability of the town centres to evolve (*Cadogan Estates Ltd.*).

Council response

The Council is aware the policy will have an effect on the flexibility and of land use- however, this is the case with every planning policy. Despite this, the Council considers that the matter of vitality cannot simply be left to market mechanisms to decide what land uses should go where. There has to be an element of governance from the Council to manage this, especially in the current economic climate. As a Council, we wish to preserve the vitality of town centres for the future communities that will live and work in Kensington and Chelsea, and public houses and other A class uses are an important part of this mix.

The loss of pubs does not necessarily mean the loss of a community facility or its historic character (*Savills*). It is the building and not the use what can contribute to the character of the area and therefore, what should be protected (RAB Pension Trust) (*Cadogan Estates Ltd*).

Council response

The Council considers that a public house is a valued facility and in most cases will contribute towards the character and appearance of an area. Although a change of use may not necessarily result in the loss/alteration of the building, in many circumstances the erosion of the use can also have a detrimental impact on the character of an area. Much of the character of the Royal Borough is derived from its mix and fine grain of uses. The loss of this mix is detrimental to character, particularly when this mix of uses is part of the historic character of conservation areas. The Council aim to protect the loss of public houses as issues of appearance and community value are intertwined, and we consider if the use is not protected, the character will be also lost.

Although outside of the Planning controls, there is a concern about pubs converted into gastropubs and becoming practically restaurants (*ESSA*); about the take-over of local pubs, bars, cafés and restaurants by large chains (*Golborne Forum*); and about pubs being turned into other retail uses (*Jeremy Stone*).

Council response

The change from a pub to a gastropub is not considered development by the Town and Country Planning (Use Classes) Order 1987 (as amended) therefore, planning permission is not required. Planning permission is also not required for the change from a drinking establishment to a retail use, as this is the Permitted Development through the Permitted Development Order. These issues are therefore not controllable through the Planning system. The take-over of public houses by large chains is not a material planning consideration.

The review of the policy is perceived as contrary to NPPF, as there is no strong evidence of significant changes since the policy was adopted to justify the need for update (samples used for statistics too small to be significant, actual trends lower than before the Core Strategy, and the entire Borough within 10 minutes walking distance to a pub) (*RAB Pension Trust*) (*Savills*). It is also viewed as contradictory to the existing policies that protect retail over restaurants and cafés (*Cadogan Estates Ltd*).

Council response

Due to the accumulative impact of the loss of public houses over a number of years and concerns raised from the community, the Council considers that there is a need to address the issue. The Council, as planning authority, has a duty to act and implement policies which we feel are necessary. The loss of public houses shows a cumulative pattern of loss over time and from our survey, it is evident this trend of gradual loss is continuing, and heading in one direction. Additionally, where PPS4 only protected public houses in town or local centres or villages, the new NPPF, requires Local Authorities to “guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs” making specific reference to public houses (paragraph 70, pg. 17). This changed emphasis warrants reconsideration of policy.

The use of Article 4 directions is suggested to avoid the change of pub to another drinking/eating establishment (*RAB Pension Trust*) (*Paul Lever*). The financial risk that article 4 would mean for the Council is not welcomed by some (*Christine Morrissey*).

Council response

The use of Article 4 direction is not realistic for the Council. There would be large compensation costs where planning permission would have not been required, should an Article 4 direction have not been in place. By protecting all Class A uses, the risk of public houses being converted to another use may be reduced.

Please let us have other suggestions as to how we can best protect public houses

Use of the term community amenity as opposed to community facility (*ESSA*).

Council response

Noted.

Reduce business rates for pubs (*Andrew Reeves*) (*Bernier*) (*Christine Morrissey*)

Council response

Business rates are not a planning material consideration.

Allow residential only for pub staff or paying guests (*Anthony Paul*)

Council response

A public house that contains residential facilities for staff or accommodation for paying guests, as long as it is ancillary to the principal use as a pub, cannot be considered residential or hotel accommodation.

Create a new class use only for pubs (*Barry Winkleman*)

Council response

The Use Classes are established in The Town and Country Planning (Use Classes) Order 1987 (as amended), and Local Authorities have to abide by this Government statutory instrument.

No need to protect pubs per se, only if the loss is resisted by local residents. (*Belinda Bekhiet*)

Council response

The proposed policy (option 4) defines a criteria by which establishments that act as a community facility and/or contribute to the character or appearance of the area can be protected. Additionally, as with any other proposed development, planning applications are subject to a period of public consultation during which, local residents can submit their objections to the proposal.

Allow pubs that have closed to be used as interim community use to protect the safety and vibrancy of the area. (*Bernier*)

Council response

Although public houses are considered a community facility, they are not classified as such under the Town and Country Planning (Use Classes) Order 1987 (as amended). They are classified as drinking establishments. Therefore, if a public house is lost to another use, unless this use is specifically a social and community use, the only use allowed would be the one for which permission was granted.

Encourage other social events in pubs to make them more economic (*John Fitzgerald*)

Council response

The management of public houses (or any other drinking or eating establishment) is not an issue that can be controlled by the Planning system. The events and activities run in a public house are outside of planning controls.

Make a list of pubs in the Borough for the residents to be aware of what is in their area (*Brompton Association*).

Council response

There is list with all the pubs in the Borough and this could be made available for the public. However, whether this would be appropriate to appear on a planning website is another issue.

Request a viability test (at least last two years of trading) (*CAMRA*), and consider viability as a key issue (*Savills*).

Council response

Viability can be a material planning consideration for any proposal for a change of use, so introducing a prescribed viability test is not necessary.

Unfair to protect only pubs and not cafes and restaurants (*Christine Morrisey*)

Council response

The Council agrees. They all represent different valuable community roles and by protecting them all the Council can guarantee the policy impacts equally on the community, and does not benefit a particular group.

Consideration that a destroyed asset is lost forever (*Edd de Burgh Codrington*)

Council response

This issue is considered in all the proposed options. One of the aims of the use of a criteria for protection is to prevent the loss of heritage assets that contribute to the character or

appearance of the area. Once lost to a higher value use, the position is highly unlikely to be reversed.

To include specific baseline data for the historic environment, like designations or contribution of specific pubs, and also how many of the lost pubs have heritage significance. Also to develop a strategy for the heritage assets within a local authority's jurisdiction (*EH*)

Council response

A list of pubs that are considered of historic significance has been produced and could be made available for the public. However, it would be of more use if such facilities were included in revised Conservation Areas Proposals Statements.

Not to allow pub companies putting on restrictive covenants preventing the new owners from operating the premises as a public house (*Frank Busby*).

Council response

It is unclear what exactly this comment means, but restrictive covenants are not material planning consideration, and therefore they are outside the control of the Planning system.

To consult with local residents and CAMRA (*Geoff Allan*)

Council response

The draft policy will be subject to a six week period of public consultation, where everyone will have the chance to submit their opinion on the document. It will then be subject to a further six week period of consultation when it is published for soundness.

To alert residents that have shown interest in pubs before (by for example, objecting to previous application for change of use from pubs to something else) the consultation (*John Cooper*).

Council response

Noted

To protect pubs where community value, including income, is apparent, and to list these pubs with high value in its current use to inform prospective purchasers (*Marshall Land & Property Associates LLP*)

Council response

As part of the evidence base produced previous to the publication of the issues and options paper, a list of current and previously lost pubs was produced. This list identifies pubs that are considered of historic significance and also those considered to have community facilities. However, it would not be appropriate to use such evidence to inform prospective purchasers, this is not the purpose of the Planning system.

Any person purchasing a property within 500 yards of a public house cannot then object to it later (*Nigel Gwilliams*)

Council response

Noted.

Council to be prepared to buy the premises and rent them out (*Paul Lever*)

Council response

This is not a realistic option.

Make clear that community function includes establishments that have historically attracted tourists (*Radnor Walk Residents Association*)

Council response

Noted

If feasible, ensure that all buildings of historic and/or architectural interest are listed (*Susan Walker Architects*).

Council response

Buildings are listed by English Heritage and not the Planning Local Authority. Additionally, listing a building that hosts a pub may reduce, but not eliminate, the chances of it being changed into another use.

The age of the public house and whether or not serves diverse economic groups in relation to its location, should be taken into consideration. (*Tonya Hoffman*)

Council response

The historic nature and continued use of a building, especially one for which it was originally built, would contribute to the character of an area. This would be taken into account. The type of clientele of any drinking or eating establishment is not a material planning consideration.

Consultation Workshop

Monday 23 April 2012

Topic: Public Houses Issues and Options

The discussion was structured into four principal options and these will be dealt with in the order that they appear in the document. This is then followed by other general comments in relation to developing a planning policy on the loss of public houses.

Option One

The Council should resist the loss of A4 uses (drinking establishments including public houses) across the Borough where a public house acts as a community facility and/or contributes to the character or appearance of the area.

- Need for a definition of social and community facilities
- Pubs are a cheaper option to meet than restaurants
- Generally not a preferred option

Option Two

The Council should resist the loss of Class A4 uses (drinking establishments including public houses) and Class A3 uses (restaurants and cafes) across the Borough where the facility acts as a community facility and/or contributes to the character or appearance of the area.

- Need to remove AND/OR from the wording of the option and include only AND so public houses both have to contribute to the character of the area and be a social and community facility.
- Realise the social value of pubs as opposed to restaurants – a meeting place for an entire evening; cheaper than a restaurant; less formal; history and heritage of a pub; view that restaurants do not have the same value so no real desire to protect.
- There is nothing wrong with a gastro pub – need to move with the times
- Generally not a favoured option – but support from one group along with Option 4.

Option Three

In consultation with residents groups, land owners and other interested stakeholders, the Council will draw up a list of public houses which it would like to see protected. The loss of any public houses on this list will be resisted.

- This option was favoured by one group as it specifically targeted pubs

Option Four

The Council should resist the loss of all A Class uses where the facility acts as a community facility and/or contributes to the character or appearance of the area.

- This was the most popular option as it was felt to be the most inclusive and was the least likely of the options available for a public house to be lost to another use.
- Option 4 is good for the community and the character of the area.
- Only Option 4 reduces the hope value of a change of use
- Option 4 offers the strongest protection at a planning appeal.

Other general comments

- How does the Council define a community facility?
- Isolated public houses should be given greater protection as their loss will have a larger impact.
- Business rates should be reduced for public houses to support the viability of running a pub
- The use is not as important as the architecture of many traditional pubs – this should be preserved at all costs.
- Could a policy for the greater protection of public houses lead to greater vacancy rates?
- How can market forces be accounted for?
- Stop the demolition of pubs. Let them be turned into housing if uneconomic, but do not let them be demolished.
- Can hairdressers be included as a community facility?
- Need for a definition of social and community facilities (who is the community and who decides that the facility is a social and community one?)

- Some pubs are poorly managed and cause a nuisance to neighbours. Do we really wish to protect these?
- Some pubs are no value to the community. Only support pubs that offer a clear community facility.
- To prevent using the Use Classes Order to achieve undesirable changes of use can there be a minimum occupation time?
- Should explicitly prevent the change of use of pubs to residential.
- Article 4 directions may be the only approach that will actually work. However, are they realistic given the differential in land values compared to a house?
- Particular value of public houses outside a town centre location as these serve a community function
- Need research as to why public houses are being lost – or is it simply a result of increasing land values?
- The viability argument needs to be understood. Greater awareness is required as to when a pub is being deliberately run down.
- Once lost to residential it will be lost forever.
- Make use of paragraph 6 of the NPPF