

## LONDON BOROUGH OF BROMLEY – EXAMINATION OF THE LOCAL PLAN DOCUMENTS

### Further Statement by Robert Gordon on behalf of Bromley CAMRA in response to the Inquiry Inspector’s Matters Issues and Questions.

#### 1. Introduction

- 1.1 This is a statement on behalf of the Bromley branch of the Campaign for Real Ale (CAMRA) in respect of the following matters identified by the Inspector:

*Issue 7: Are the policies relating to community facilities justified, consistent with national policy and will they be effective?*

These policies include Policy 23, which aims to protect public houses.

*Policy 23. Is the 6 month marketing period justified in the application of this policy? (Inspector’s question 32).*

- 1.2 It is our contention that, as currently worded, Policy 23 is unlikely to achieve its objective of preventing the unnecessary loss of public houses. In particular, the specified minimum marketing period of six months is too short to demonstrate a lack of market demand.
- 1.3 In this statement, Section 2 looks at the background and recaps Bromley CAMRA’S reservations about the wording of the policy and the reduction in the minimum marketing period required. Section 3 addresses the issue of the marketing period. Section 4 examines the potential effectiveness of Policy 23 as a whole. The statement amplifies and supplements our previous comments on the Proposed Submission Draft Local Plan.

#### 2. Background to the Council’s Pub Protection Policy

- 2.1 This section summarises the evolution of the local plan’s pub protection policy through the later stages of plan preparation, including the submissions of Bromley CAMRA and the Council’s officer responses.

- 2.2 A *Draft Policies and Designations Document* was published for consultation in February 2014. Policy 6.7 (Public Houses) stated that the loss of public houses would be resisted except where:

(1) there is alternative provision within 500m and the diversity of a town centre or local parade would not be significantly harmed;

(2) it can be demonstrated that the business is no longer financially viable, including evidence of active marketing as a pub for a substantial period of time.

- 2.3 The supporting text explains that, in order to demonstrate that a public house is no longer financially viable, would require evidence of 18 months’ suitable

marketing activity and proof that the public house is no longer financially viable through the submission of trading accounts, or other similar financial evidence, whilst the pub was operating as a full time business. Redundant pubs would also be required to comply with the Community Facilities Policy and hence for the last 6 months of marketing there should be consultation with relevant Council departments and third party providers to establish whether any community groups or service providers have expressed both a need for the site and are interested in buying or leasing it.

- 2.4 In response to the consultation document, Bromley CAMRA welcomed the policy in principle and supported the financial viability test, considering that eighteen months is a reasonable period of time to assess market demand. In their comments on the consultation response, Council officers welcomed this support for the 18 month marketing period (Development Control Committee 11 July 2016 and Executive Agenda, 20 July 2016, Item 12 Draft Local Plan. Appendix B Consultation response).
- 2.5 Bromley CAMRA also expressed reservations about the wording of the policy and supporting text and urged the Council to make changes to improve the clarity and effectiveness of this policy. In particular, the 500m threshold was considered to be arbitrary and unnecessary. As an alternative, the following wording was suggested:
- There are alternative licensed premises, within easy walking distance of the public house, that offer similar facilities and a similar community environment to the public house which is the subject of the application.*
- In this context, CAMRA's *Public House Viability Test*, which sets out a range of matters that should be taken into consideration, was commended to the Council.
- 2.6 In response to these objections, Council officers stated that the 500m distance is justified in its Public House Evidence Base and that the type of pub can be subject to change and is outside planning control.
- 2.7 Curiously, despite welcoming Bromley CAMRA's support for the 18 month marketing period, paragraph 5.14 of the covering agenda report states that the marketing period required by policies addressing community facilities and public houses has been reduced from 18 months to 6 months, reflecting the marketing period required for non- designated business sites.
- 2.8 At the Development Control Committee meeting, the Chairman emphasised the importance of public houses within local communities and considered the marketing period to be insufficient. However, the six month period was retained following the fall of a vote at 7-8 to extend this to 12 months. (Minute Item 13)

Proposed Submission Draft Local Plan July 2016

- 2.9 The elements of Draft Policy 23 (Public Houses), relevant to this statement are:

*The loss of public houses will be resisted by the Council except where:*

*(a) There is an alternative public house within a 500 metre walking distance of the site; and,*

*(b) It can be demonstrated that the business is no longer financially viable as a public house, including the submission of evidence of active marketing as a pub for a substantial period of time.*

2.10 While welcoming the inclusion of a pub protection policy, Bromley CAMRA objected to the following aspects of the two criteria included in the policy.

(a) The 500m threshold is arbitrary and makes the policy ambiguous. It may encourage a Pubco to think it is entitled to close a viable pub on the basis that there is another pub up to 500m away.

(b) The supporting text specifies a period of six months' suitable marketing activity to demonstrate that a pub is not financially viable. In practice, this period is insufficient and it is more appropriate to require the 18 month period specified in the previous version of the Local Plan.

2.11 The following officer response to these objections was reported to the Development Control Committee on 12 June 2017.

*(a) The 500m threshold, walking distance attempts to ensure ease of access to a public house. Transport for London (TFL) "Travel in London Report 9" (2016) indicates the mean walk trip length by London residents is around 0.5km.*

*The policy threshold of 500m produces a circle of approx 1km around each pub. The Mayoral Social Infrastructure SPG (2015) indicates in that the minimum reasonable accessibility standard for a pub in areas with 40 persons per hectare is 1km. Thus the policy resists the loss of a pub which would increase the number of dwellings beyond 1km from a pub.*

*(b) The 6 month marketing period was amended from the 18 months set out in the 2014 consultation document to reflect the period of marketing required by draft Policy 83 "Non-designated Employment Land".*

### **3. Marketing Requirement**

3.1 The question raised by the Inspector is whether a six month marketing period is justified in the application of the Borough's Pub Protection policy. This is in the context of a previous version of the policy where an 18 month period was specified. The Council's reason for the change is to reflect the marketing period required by its policy on 'Non-designated Employment Land'.

3.2 This change is not adequately explained. Despite the Council's acknowledgement that public houses are important community assets, in respect of the marketing requirement they appear to be treated simply as

employment uses. This comparison to neither relevant nor appropriate. It does not reflect the special circumstances of pubs as important community assets whose loss has damaging social consequences. Nor does it take into account the proven vulnerability of viable pubs to pressure for change of use or redevelopment in order to increase property values.

- 3.3 The appropriate minimum marketing period should reflect the policy's objectives and the specific circumstances relating to public houses. The aim must be to ensure that viable pubs are not unnecessarily lost. The process can take time and it is reasonable to require an effective minimum marketing period. Time is needed not only for appropriate publicity to take effect but also for prospective purchasers to become aware of the sale opportunity and put together a bid. Pubs have a social as well as a financial value and it is especially important to ensure that viable pubs are not lost.
- 3.4 For marketing to be effective, the pub should be offered for sale as a going concern at a realistic price, taking into account trading potential and the condition of the building. The property should be placed with an appropriate specialist agent and offered for sale for a reasonable length of time at a realistic price that reflects its market value as a pub. It should be advertised via a wide range of marketing media, both locally and nationally. All enquiries should be dealt with promptly and helpfully.
- 3.5 For prospective buyers, the process is likely to cover a number of time-consuming stages. First, there is the time it takes for prospective bidders to find out about the sale opportunity, either directly or through a third party. This, in itself, could take some months. Some prospective purchasers may only find out about the sale at a relatively late date. Then there is the time needed to examine all the sale details and inspect the property. Time would be needed to examine previous years' trading accounts and to take suitable professional advice (market and financial). A property survey would be needed to highlight its condition and potential cost of repairs. An independent valuation would be required. If it is necessary seek finance, it may be necessary to prepare a business plan and carry out an investment appraisal. All this must happen before an offer is made.
- 3.6 Pubs are vulnerable to pressure for development that would increase their property value. This is particularly relevant when they are owned by large pub companies eager to reduce their debt burdens. If the pub's owners do not want to sell the business as a going concern, in the hope of securing a higher value for an alternative use or redevelopment, they may be deliberately unhelpful and/or put up barriers to a successful sale. For example, they may demand an unrealistic price and/or impose onerous terms of sale. It is important that the pub be offered for sale free of tie and restrictive covenant. There may be delays in responding, providing access to the premises and providing full and appropriate information, especially the relevant trading accounts. Because past trading performance can be adversely affected by poor management, there should also be an overview of the previous several

years and an examination of all factors that may have affected trading performance. There are particular problems if the owner has already closed the pub and/or allowed the building to deteriorate.

- 3.7 In summary, if the marketing period is too short, there is a real risk that genuine prospective purchasers will not have been properly considered. The marketing process for pubs can inevitably take some time to be effective. Moreover, the special community value of pubs means that extra efforts are justified - once a pub is gone it's unlikely to come back. Some pub owners have a financial incentive to sell and their marketing efforts may therefore be half-hearted.

#### Marketing Requirements of other London Boroughs.

- 3.8 The appendix to this statement sets out the minimum marketing periods specified in the relevant planning documents of all other London boroughs that have pub protection policies. It shows that of the 21 boroughs identified, eleven require a minimum of 12 months, two require 18 months, five require 24 months, one requires 30 months, one requires 36 months and one does not specify a minimum requirement. No other London borough has a specified marketing period of less than twelve months.

### **4. Effectiveness of Policy 23**

- 4.1 As explained above, Bromley CAMRA considers that the marketing period of 6 months, set out in paragraph 3.1.33 of the supporting text, is insufficient to properly test market demand for a public house, especially where the owner is determined to sell for a higher-value alternative use. For this reason, a longer marketing period is necessary and justified for public houses. The 2014 draft policies and Designations Consultation Document specified a minimum period of 18 months. This is much more appropriate if the policy is to be effective.
- 4.2 In previous comments on draft Policy 23, Bromley CAMRA suggested that the wording is ambiguous and the policy may therefore not achieve its stated objective. In their response, officers confirmed that the policy resists the loss of pubs unless both clauses a) and b) are satisfied. However, we still have concern that the inclusion of a specified 500m walking distance may reduce the effectiveness of the policy as a whole, especially if the marketing period remains at the reduced period of six months. Where there is a pub of any description within the 500m threshold, applicants may think that viability is the only test and the availability of suitable alternative provision is not relevant.
- 4.3 The 500 metre threshold has been justified by the Council on the basis that it reflects Transport for London's estimate of the mean walk trip length by London residents (see paragraph 2.12, above). Bromley CAMRA considers that the use of this threshold is flawed for the following reasons:
- It is a misuse of the statistics. An average walk trip length is not the same as a desirable walk trip length. It does not take into account the

range of pub users, including older people with mobility problems. For some people, a walk of 20 minutes or more would not be considered easy. Public houses are community facilities that should be accessible to all types of people, including the elderly. As Paragraph 3.1.7 of the Proposed Submission Draft Local Plan states: “The loss of social infrastructure can undermine communities and ... contribute to social isolation, which impacts particularly on older, disabled and other vulnerable groups.”

- It does not take into account the role and character of the alternative public house. The Council's *Public Houses in Bromley Evidence Base 2014* recognises and identifies a variety of pub types of which Local/Community pubs are just one category. There are often good arguments as to why alternative facilities are no replacement for the pub in question. For example, they might be very food-oriented or aimed only at particular groups of people.
- The distance is measured from the threatened pub. Assuming the threatened pub is at the centre of its local catchment and the alternative pub is 500m away from it, then for half of the existing customers the walk to the alternative pub would be in excess of 500m. Even if the alternative pub is suitable, the longer the walk to it the fewer people would be inclined to use it. The result would be a much wider spacing of pubs than assumed by the Council.

- 4.4 This 500m threshold is arbitrary and unnecessary. An examination of the pub protection policies of some other city councils and all London boroughs reveals that none of them have a specified distance threshold of the kind included in draft Policy 23. While it is reasonable to take into account the local availability of suitable alternative facilities, it would be better to leave this as a matter of judgement for the Council as planning authority. The Council should take into account the nature and character of other pubs in the local area when deciding if suitable alternatives are available. It should also take into account the need for a choice of local pubs to meet different community needs. If there is a surplus of pubs in an area then this would also be a factor in determining whether a pub is economically viable.

#### Conclusion

- 4.5 Policy 23, as drafted, is not likely to achieve its primary purpose of protecting pubs. This is because, for the reasons set out in this statement:
- The marketing period specified in the supporting text is too short to be properly effective.
  - Reference in the policy to “an alternative public house within a 500m walking distance of the site” as a specific consideration in determining planning proposals may lead to the closure of valuable community pubs.

It is the contention of Bromley CAMRA that, because the policy is unlikely to be effective, it fails the test of soundness. To overcome this, the minimum

marketing period should be restored to eighteen months and there should be no reference in the policy to a 500 metre walking distance. The alternative wording suggested in paragraph 2.5 of this statement is commended.

**APPENDIX: LONDON BOROUGH PUB PROTECTION POLICIES - SUMMARY OF MINIMUM MARKETING REQUIREMENTS**

<b>Borough Plan and Policy</b>	<b>Minimum Marketing Period</b>
<b>Lambeth</b> Local Plan (adopted September 2015). Policy ED8 Public Houses.	<b>12 Months</b>
<b>Merton</b> Sites and Policies Plan (adopted 2014).	<b>30 months</b>
<b>Wandsworth</b> Local Plan: Development Management Policies Document (adopted March 2016). Policy DMTS8 Protection of Public Houses and Bars.	<b>18 months</b>
<b>Lewisham</b> Development Management Local Plan (adopted November 2014). DM Policy 20 Public Houses.	<b>36 months</b>
Royal <b>Greenwich</b> Local Plan: Core Strategy with Detailed Policies (adopted 30 July 2014). Policy EA (b) Pubs.	<b>24 months</b>
New <b>Southwark</b> Plan: Proposed Submission Version (2017). Policy P37 Pubs.	<b>24 months</b>
<b>Croydon</b> Local Plan: Detailed Policies and Proposals (Proposed Submission September 2016). Policy DM22 Protecting Public Houses.	<b>18 months</b>
<b>Sutton</b> Draft Local Plan 2016-2031: Proposed Submission Consultation Draft (December 2016). Policy 22 ??	<b>12 months??</b>
<b>Tower Hamlets</b> Local Plan 2031: Submission Draft issued for consultation October 2017. Policy D.CF4 Public Houses.	<b>12 months</b>
<b>Waltham Forest</b> Public Houses Supplementary Planning Document (March 2015)	<b>12months for public house use followed by a further 12 months for alternative community use.</b>
<b>Barking and Dagenham:</b> Preserving Public Houses SPD (June 2014)	<b>12 Months</b>
<b>Haringey</b> Development Management DPD (adopted July 2017) Policy DM50: Public Houses.	<b>12 Months</b>
<b>Brent</b> Local Plan: Development Management Policies (November 2016). Policy DMP21 Public Houses.	<b>24 Months</b>
<b>Harrow</b> Development Management Policies May 2013. Policy DM47 Retention of Existing Community, Sport and Educational Facilities.	<b>12 months for proposals involving the loss of a public house.</b>
<b>Richmond</b> Adopted Development Management Plan (adopted November 2011). Policy DM TC 4: Local Shops, Services and Public Houses.	<b>2 years</b>
<b>Lambeth</b> Local Plan (adopted September 2015)	<b>12 months</b>
<b>Hackney</b> Draft Local Plan 2033 (October 2017). Policy 7: Social and Community Infrastructure. Includes pubs.	<b>1 year</b>
<b>Islington</b> Local Plan: Development Management Policies (June 2013) Policy DM4.10 Public Houses	<b>2 years</b>
<b>Haringey</b> Development Management DPD (adopted July 2017) Policy DM50 Public Houses	<b>12 months</b>
<b>Hammersmith and Fulham</b> Proposed Submission Local Plan (February 2017) Policy TLC7 Public Houses	<b>12 months</b>
<b>Camden</b> Local Plan Submission Draft (2016) Policy C4 Public Houses.	<b>Marketing required but no period specified</b>