

Date: 14 April 2009  
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To: Members of the Corporate Overview Committee (Councillors:  
Ray Bloxham, Roger Boote, Peter Bowden, Graham Brown,  
Malcolm Florey, Chris Gibbings, Graham Godbeer, Pat Graham,  
Ben Ingham, Stephanie Jones, David Key, Bob Peachey,  
Brenda Taylor, Tim Wood, Steve Wragg).

Portfolio Holders  
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## **Meeting of the Corporate Overview Committee**

**Thursday 23 April 2009 – 6.30pm**

**Council Chamber, Knowle, Sidmouth**

Members of the public are welcome to attend this meeting.

- A period of 15 minutes has been provided to allow members of the public to raise questions.
- In addition, after a report has been introduced by the relevant Portfolio Holder and/or officer, the Chairman of the Committee will ask if any member of the public would like to speak in respect of the matter and/or ask questions.
- All individual contributions will be limited to a period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of group.
- The public is advised that the Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.

A hearing loop system will be in operation in the Council Chamber.

**Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.**

### **AGENDA**

**Page/s  
and timing**

1. **Public question time – standard agenda item (15 minutes)**  
Members of the public are invited to put questions to the Committee through the Chairman.
  - Each individual questioner exercising the right to speak during this public question time is restricted to speaking for a total of 3 minutes.
  - Councillors also have the opportunity to ask questions of the Leader and/or Portfolio Holders during this time slot whilst giving priority at this part of the agenda to members of the public.
  - The Chairman has the right and discretion to control question time to avoid disruption, repetition, and to make best use of the meeting time.
2. To confirm the minutes of the meeting of the Corporate Overview Committee held on 26 March 2009

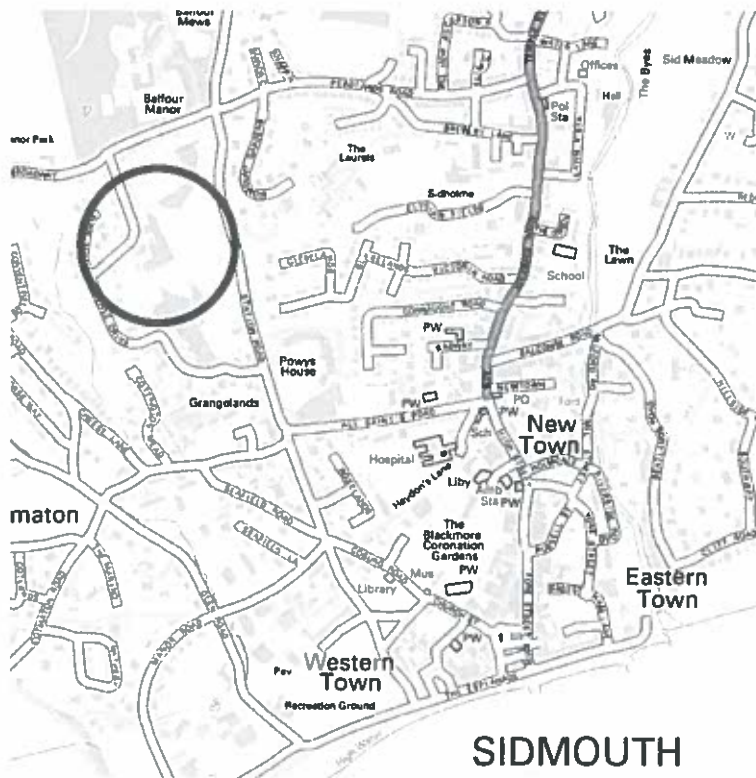
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3. To receive any apologies for absence.
4. To consider any items which, in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances.  
  
(Note: such circumstances need to be clearly identified in the minutes; Councillors please notify the Chief Executive in advance of the meeting if you wish to raise a matter under this item. The Chief Executive will then consult with the Chairman).
5. To agree any items to be dealt with after the public (including the press) have been excluded. There are no items that the officers recommend should be dealt with in this way.
6. **World Heritage Coast Management Plan for the Jurassic Coast** (30 minutes)  
  
Presentation by Sam Rose, Team Leader, Jurassic Coast World Heritage Site.
7. **Pitt report on flooding issues** (30 minutes)  
(Adrian Rushworth, Improvements Manager, Environment Agency; Devon County Council)  
  
Following consideration of the recommendations of the Pitt Review at the 26 March 2009 meeting, Members requested attendance by officers of the Environment Agency and Devon County Council to understand the implications of the Pitt Review for all our organisations, and the steps that are being taken to address these recommendations. There will be an enhanced role and greater responsibility for local authorities in the management of flood risk.
8. **Draft Community Engagement policy** 8 – 18  
(10 minutes)  
  
To consider a report by Jamie Buckley, Funding & Engagement Officer.
9. **Loss of public houses in rural areas** 19 – 20  
(Cllr Paul Diviani) (60 minutes)  
  
Councillor Diviani will introduce this item for discussion. For information, the summary and recommendations of the All-Party Parliamentary Beer Group report "Community Pub Inquiry" is included in the agenda papers. The full document can be viewed at  
<http://www.communitypubinquiry.co.uk/index.php?pr=Report>

### **Members remember!**

- You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- Make sure you say the reason for your interest as this has to be included in the minutes.
- If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- You also need to declare when you are subject to the party whip before the matter is discussed.

## Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following bus service stops outside the Council Offices on Station Road:  
**From Exmouth, Budleigh, Otterton and Newton Poppleford – 157**

The following buses all terminate at the Triangle in Sidmouth, From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).  
**From Exeter – 52A, 52B**  
**From Honiton – 340 (Railway Station), 387 (Town Centre)**  
**From Seaton – 52A, 899**  
**From Ottery St Mary – 382, 387**

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

**For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546**

**Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.**



## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a Meeting of the Corporate Overview Committee held at Knowle, Sidmouth on 26 March 2009**

**Present:**

**Councillors:**

David Key (Chairman)  
Bob Peachey (Vice Chairman)

Ray Bloxham  
Roger Boote  
Peter Bowden  
Graham Brown

Chris Gibbings  
Ben Ingham  
Stephanie Jones  
Tim Wood

**Also Present:**

**Councillors:**

David Cox  
Jill Elson  
Steve Hall  
Graham Liverton

Frances Newth  
Marion Olive  
Tony Reed  
Philip Skinner

**Officers:**

Karime Hassan - Corporate Director  
Simon Smale – Head of Environmental Health & Health Equalities  
Jamie Buckley – Engagement & Funding Officer  
Chris Lane – Democratic Services Officer  
Bob Darbourne – Communications & Improvements Manager

**Apologies:**

**Councillors:**

Vivienne Ash  
Malcolm Florey  
Graham Godbeer  
Pat Graham  
Andrew Moulding  
Pauline Stott  
Brenda Taylor  
Steve Wragg

The meeting started at 6.35pm and ended at 9:15pm

**\*40 Public question time**

Melanie Turner from Ottery Dogs wished to make a point about the Dog Control Orders. She was concerned that Ottery St Mary residents had adequate areas to exercise their dogs and stated that the problem of children being blinded from toxoplasmosis was often exaggerated. Jeremy Bateson, Chairman of Ottery St Mary Dogs stated that he did not agree with the complete banning of dogs in Winters Lane Playing Field or Land of Canaan. Sonia Banton also reported that she was partially sighted through toxoplasmosis but still felt that dogs should not be banned from Winters Lane playing field and the Land of Canaan. Another resident of Ottery St Mary also spoke in favour of no dog ban for Winters Lane as many of dog owners in this area did not have access to a car and relied on this playing field to exercise their dogs.

Patricia Franklin speaking for Honiton Canine Friendship Group and for Honiton and District Canine Society reported that she was extremely concerned that the proposed Dog Control Orders would have a detrimental effect on the lives of dog owners in Honiton.

**\*40 Public question time (Cont)**

Another resident of Honiton spoke in favour of no dog ban for Allhallows Playing Field, Honiton. He lived in a flat and regularly used this area to exercise his dog.

**\*41 Minutes**

The minutes of the meeting of the Corporate Overview Committee held on 26 February 2009, were confirmed and signed as a true record.

**42 Dog Control Orders**

Consideration was given to the report of the Head of Environmental Health and Health Equalities on the public's response to proposals to create Dog Control Orders for East Devon. Members noted that there was no clear mandate in respect of some proposals whilst, in respect of others, there had been either clear opposition or no response whatever. The report invited informed debate on the issue and suggested draft recommendations for confirmation of orders based on professional opinion and weight of public opinion. This would involve a consolidation of existing Dog Control Orders in line with the Clean Neighbourhoods and Environment Act 2005. Members noted the ability for Town and Parish Councils to make dog Control Orders and considered it maybe more appropriate for new Dog Control Orders to be made on as local a basis as possible.

During lengthy discussions the following points were noted:

- That Dog Control Orders were a divisive issue and encouraged strong emotions both for and against;
- That there should be no mix between play areas and the exercise of dogs, dog mess on play areas meant that children could not play on these areas;
- That the majority of dog owners were responsible and cleared up after their dogs, but that there was a minority who were irresponsible;
- That Town and Parish Council should be allowed to make a decision on this issue as it was a very local one;
- The concern expressed over the ability to adequately police any new Dog Control Orders that were made;
- The need for the District Council to be consistent with its decision on this issue throughout East Devon;
- That each town had its own separate problems with regard to dogs.

**RECOMMENDED**

1. that the Fouling of Land by Dogs Order, the Dogs on Leads by Direction Order and the Dogs (Specified Maximum) Order be confirmed without variation;
2. that the Dogs on Leads Order be confirmed for all areas currently subject to equivalent controls within existing byelaws;
3. that the Dogs Exclusion Order be confirmed for all designated children's play areas and all other areas currently subject to equivalent controls within existing byelaws;

The Chairman thanked everyone for their contributions to the debate.



**\*43 Pitt report on flooding issues**

Consideration was given to the report of Mark Reilly, Head of Street Scene Services, on the implications to East Devon District Council arising from recommendations given in "Sir Michel Pitt's Review of the summer 2007 floods".

Following the exceptional flooding in the summer of 2007, the Government commissioned Sir Michael Pitt to conduct an independent review of the lessons learned. When the report was published it included 92 recommendations, each of which had been supported by Government.

The report and, subsequently, the recommendations followed seven key criteria, namely:-

1. Identification of areas at risk of flooding.
2. Reducing the risk of planning.
3. Rescue and care in an emergency.
4. Maintaining utilities and essential services.
5. Better advice and helping people to protect families and homes.
6. Recovery.
7. Oversight and delivery

These recommendations were addressed to Government, local authorities, local resilience forums, providers of essential services, insurers and others, including the general public. There would be an enhanced role and greater responsibilities for local authorities in the future management of local flood risk. This would impact upon current capacity and capabilities to deal with these increased roles and responsibilities. Mark Reilly reported at the meeting on the response received from the Environment Agency on the impact of the Pitt Report on East Devon District Council.

Councillor Peter Bowden reported, from personal experience that recovering from flooding was a long and painful process. Of the 350 houses flooded in East Devon, 100 were still not habitable, he hoped to back in his house in two weeks. The Flood Recovery Group for East Devon had been charged with overcoming the aftermath of a serious incidence of flooding in East Devon.

Councillor Bowden confirmed that the impact of the flooding and the Pitt Report would be felt for a long time. The effect on the community of flooding was long lasting and was mainly a "people" issue. In order to best aid the victims of flooding it was important to take action to give help in the first 36 hours. The cost of preventing the next flooding event in East Devon would be considerable.

During discussions the following points were also highlighted:

- That East Devon District Council had a very small team of staff trying to sort out the flooding problems;
- That the causes of flooding were a very complex issue;
- The concern expressed that much of the proposed Seaton Regeneration building was to be on a flood plain, particularly the 400 houses;
- The need to maintain the drainage systems which would help prevent local flooding;

**\*43 Pitt report on flooding issues (continued)**

**RESOLVED**

1. that the Executive Board be requested to prioritise the implications of the Pitt review for the role and responsibilities of the District Council in the future management of local flood risk, particularly with respect to financial and work load considerations.
2. that representatives from the Environment Agency and Devon County Council be invited to a future meeting of the Corporate Overview Committee to understand the steps that are being taken by both organisations to address the recommendations of the Pitt Review;
3. that the recommendations and views of the Flood Recovery Group be brought to both the Corporate Overview Committee and Executive Board for consideration.

**\*44 Place Survey Results**

Jamie Buckley, Engagement & Funding Officer gave a presentation on results of the Place Survey. Members noted that the Place Survey had been sent out by the Council on behalf of central Government to a random selection of households in East Devon between September and December 2008. The purpose was to gain information that would improve outcomes for local people and places, so many of the questions were more relevant to East Devon as a place rather than East Devon District Council specifically.

The headline results for this survey were made available to the Committee, Comparison information from other district authority areas was not yet available so the results were not in context. When this information was released by the Audit Commission it would be reported to the Committee. The Council and the East Devon Local Strategic Partnership would use the results of the survey to improve outcomes for local people and places. Members noted that the data received would be helpful to the Leader's Service Transformation Group.

Jamie Buckley was thanked for her presentation of the Place Survey statistics.

**RESOLVED**

that the high percentage of resident satisfied with doorstep recycling scheme be welcomed, but concern be expressed over the reduction in satisfaction with the Leisure Service provision over the last 8 years and the Scrutiny Committee be requested to investigate this issue.

**\*45 Special meeting of the Overview Committee**

Members noted that a special meeting of the Corporate Overview Committee would be held on Thursday 2 April 2009 to consider the design and enhancement of The Strand, Exmouth. The meeting would be held at 6.30pm at the Council Chamber, Exmouth Town Hall and would be preceded by a site visit to The Strand.

Chairman ..... Date.....



## Agenda Item

**Corporate Overview Committee/ Executive Board**

**23 April 2009/ 6 May 2009**

**CEP08/09**



## Community Engagement Policy

### Summary

Members are asked to recommend approval of the draft Community Engagement Policy which updates the current Consultation Policy by taking account of a wide range of legislation and guidance, most notably the new statutory duty to involve the public in the Council's activities which comes into force today.

### Recommendation

**That Executive Board and Corporate Overview Committee recommend approval of the draft Community Engagement Policy.**

#### a) Reasons for Recommendation

The Council's last Policy regarding community engagement was the Consultation Policy adopted in 2006. Since 2006 there has been a wealth of guidance, legislation and statutory duties expanding the idea of consultation to include all engagement activities. Consultation is seen as merely one way of engaging local communities. The Consultation Policy has been amended to reflect these changes and this new draft Community Engagement Policy has been produced which follows this report.

#### b) Alternative Options

None

#### c) Risk Considerations

If the Council did not have an up to date policy on community engagement the Council could be criticised in a future audit or inspection and our reputation and budgets could also be affected.

#### d) Policy and Budgetary Considerations

The recommendation involves updating existing policy and there are no immediate budgetary implications.

#### e) Date for Review of Decision

March 2011

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### 1 Main Body of the Report

There are tremendous benefits to East Devon residents, the Council and its partners of improved community engagement. This is backed up by a great deal of Government pressure towards more Community Engagement in all public services. This includes new provisions from April 2009 to ensure that local public services inform, consult and involve representatives of local persons or local persons in our functions where the Council considers it possible and appropriate.

The draft Community Engagement Policy provides a framework for community engagement in East Devon. This policy will support the councils vision of; 'Outstanding and sustainable quality of life for everyone in East Devon', and in particular the value of 'wisdom to listen'. One of the corporate priorities is also 'Children and Young People' so it is important we undertake inclusive engagement activities so they include this group. Another of our corporate priorities is 'Excellent service for our customers' and by engaging our customers we can find out how we can improve the services we provide to them. A new draft Community Engagement Policy follows this report.

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## **Legal Implications**

### **Local Government and Public Involvement in Health Act 2007 –involvement of local representatives**

New consultation provisions have been introduced by section 138 of the Act. There is a new duty to take such steps as the council considers appropriate for representatives of local persons (or of local persons of a particular description) to be involved in the exercise of any of its functions by being—

- (a) provided with information about the exercise of the function,
- (b) consulted about the exercise of the function, or
- (c) involved in another way.

However, the Act gives no new powers to provide with information, consult or inform, and does not require any action where the step would be incompatible with a Community obligation or any other duty imposed on the authority under another enactment or a rule of law.

The statutory guidance "Creating Strong, Safe and Prosperous Communities" was published on 9th July 2008, and must be taken into account. It advises "local persons" refers to those likely to be affected by, or interested in, a particular authority function. It also covers those who work or study in the area (including those who work for the authority); visitors; service users; local third sector groups; businesses; bodies such as parish councils; and anyone else likely to be affected by, or interested in, the function. The term covers children and young people, as well as adults.

The phrase "*representatives of local persons*" refers to a mix of "local persons", i.e. a balanced selection of the individuals, groups, businesses or organisations the authority considers likely to be affected by, or have an interest in the authority function. It does not include elected representatives, as the legislation is encouraging participation beyond those already involved in the democratic process. As such, authorities should consider the diverse groups within the community who might be affected by, or interested in, a particular authority function (paragraphs 2.22 to 2.23 provide more information on the issues authorities should consider when determining *representatives of local persons*).

## **Financial Implications**

There are no financial implications

## **Consultation on Reports to the Executive**

This report was considered by SMT on 24 February 2009

## **Background Papers**

### **National Policy and Legislation**

These are detailed in the appendix to the draft policy





# East Devon District Council

## Community Engagement Policy

### Reviewed

Reviewed in 2008, supersedes Consultation Strategy 2006

### Policy Approval

Executive Board

### Reasons for introducing the Policy

There are tremendous benefits to East Devon residents, the Council and its partners of improved community engagement. Better engagement with residents and customers will help us to:

- Make services better by planning them around customer demand and expectation
- Help services to understand their customers better
- Have more satisfied communities that feel listened to
- Have communities that understand how we balance our resources e.g. through Participatory Budgeting
- Be inclusive and open
- Find out about and remedy problems quickly
- Revitalise local democracy
- Encourage shared decision making
- Achieve the Council's priorities

This is backed up by a great deal of Government pressure towards more Community Engagement in all public services. This includes legislation from April 2009 to ensure that where the Council considers it appropriate it must inform, consult and involve representatives of local persons or local persons in its functions. The expectation of the Government is that the Council will engage with residents and customers (and act upon their input) wherever possible and appropriate, it has arranged for councils to be assessed on this in the new Comprehensive Area Assessment (CAA). Details of relevant Government policies and legislation are listed in the Appendix.

### Policy Statement

The Community Engagement Policy provides a framework for community engagement in East Devon. This policy will support the councils vision of; 'Outstanding and sustainable quality of life for everyone in East Devon', and in particular the value of 'wisdom to listen'. One of the corporate priorities is also 'Children and Young People' so it is important we undertake inclusive engagement activities so they include this group. Another of our corporate priorities is 'Excellent service for our customers' and by engaging our customers we can find out how we can improve the services we provide to them.

The main aims of the Policy are:

- A better quality of life for local citizens
- More locally focused services
- Revitalised local democracy
- A stronger more positive link between local people, their local councillor and the local authority
- Improved links between different communities

## Terms Explained

Community Engagement: "The process whereby public bodies reach out to communities to create empowerment opportunities"

Community Empowerment: "The giving of confidence, skills and power to communities to shape and influence what public bodies do for or with them"

## How will we go about it?

Where East Devon District Council considers it appropriate (Government guidance states that by 'appropriate' they mean for 'routine functions' and 'significant one-off' decisions) it must involve representatives of local persons, or local persons, in the exercise of its functions by:

- Providing information on the exercise of the function
- Consulting on the exercise of the function
- Involving in other ways about the exercise of the function

This is also the expectation of national Government which will be assessed by external auditors during Comprehensive Area Assessment. Comprehensive Area Assessment will particularly assess the extent to which authorities can demonstrate that they are responsive to the priorities and concerns of local people.

In particular engagement will normally be carried out (amongst other times):

- On amended or new council policies where appropriate with relevant groups
- When setting our council tax precept and deciding upon spending priorities for future years
- When looking at changing the ways our services are delivered to customers e.g. the Systems Thinking approach currently being undertaken throughout the Council.
- When deciding upon priorities for the area and the Council for future years
- On local level issues such as what equipment should be put into a playing field in Axminster or what facilities should be provided at the Axe Wetlands project.

We will not engage if there is no reason to engage at all, including:

- If the decision has already been made
- If the results are not going to be used
- If we cannot deliver what we are asking
- If there are previous similar up to date engagement results
- If the appropriate resources, including financial resources, are not available
- If the urgency of the issue is such that the public interest lies in addressing the issue straight away
- Some regulatory matters where statutory processes must be followed

## Specific Policy Areas

### 1. Different approaches

There are different levels of community engagement approaches, some more empowering than others. These are:

- Empowerment- you do it; we stand back.

Example- Community organisations can realise tremendous potential by taking on the management and ownership of community assets such as village halls, markets and local open spaces. We have a Transfer of Assets Policy and welcome approaches from Parish and Town Councils and community organisations if they would like to take over management of some of their community's assets.

- Involve- we work together on decisions and/ or delivery



Example- Tenant Participation helps to ensure that tenants of our Council housing have the opportunity, means and incentives to be involved in decisions on housing strategies, investment options and on housing services.

➤ Consult- we want to know what you think in order to make a better decision

Example- We are proposing to develop the Axe Wetlands and are asking a variety of people including children, residents, tourists, community groups and Seaton Town Council what they would like to see happen there. This also includes our Neighbourhood Assessment Programme, whereby our Environmental Health Team with partners e.g. Devon and Cornwall Police spend time in various locations all around East Devon visiting residents in their own homes. Residents are asked what their issues are and we try to resolve those issues.

➤ Inform- this is knowledge we want you to have

Public information is the process by which the council informs people of its intentions, procedures and practices. This underpins active engagement and includes our quarterly magazine, East Devon Talk, which is delivered to all households in East Devon. The Council's approach to communication is detailed in its Communications Strategy.

Every one of these is important and different approaches will be appropriate depending upon the topic and the situation. Sometimes it is only appropriate to inform people, and other times communities can become a lot more involved.

## **2. Who are we going to engage?**

East Devon District Council will engage communities who live and/or work or visit East Devon.

### **2.1 What is a community?**

Communities can be:

- Communities of Place- People living within a certain location like Exmouth or Axminster or East Devon
- Communities of interest or identity- People who share a particular experience, interest or characteristic such as young people, older people, faith groups, disabled groups, ethnic groups, park and open space users

People often belong to more than one community, and communities themselves are very diverse. People may well move from community to community throughout their lives. We will choose appropriate methods to make sure that as many different types of communities and individuals are engaged as is appropriate and possible.

Communities include, but are not limited to:

- Town and Parish Councils
- Direct and indirect service users
- Potential service users
- Residents
- Community and voluntary organisations
- Local businesses
- Employees
- Partners involved in the East Devon Local Strategic Partnership

### **2.2 Engaging all communities**

Communities can be hard to engage with for many reasons such as physical, attitudinal, financial or cultural barriers. The Council has a commitment to engage individuals or communities whose views are seldom heard in engagement activities e.g. children and young people, physically and mentally disabled residents, ethnic groups. We will choose

appropriate methods to make sure that as many different types of communities and individuals are engaged as is appropriate and possible.

We will always consider that what are often not perceived to be hard to reach groups are hard to reach. For example business communities and working age people who are very busy and find it hard to find the time to be engaged.

Engagement exercises will be Equality Impact Assessed to make sure they are accessible by all the relevant people. Equality Impact Assessments themselves encourage engagement with the Council's different stakeholders.

### **3. Elected Members**

Elected Members will be kept fully informed and aware of all engagement activities by the relevant Manager. The role of Elected Members in engagement is crucial in their community leadership role, and they will:

- Develop relationships with residents in their Wards
- Instigate engagement activities
- Gather feedback from their involvement
- Make sure engagement is listened to and acted upon

Elected Members will use processes available to help them in these tasks, such as Scrutiny Committee.

### **4. Town and Parish Councils**

Engagement with Town and Parish Councils is particularly important. This includes:

- The Engagement and Funding Officer making them aware of the developing agenda
- Heads of Service and Managers making sure that they are aware of engagement activities being carried out that are relevant to their Wards, and ensuring they are made aware of the results
- Using engagement carried out by Town and Parish Councils, in particular including Parish Plans
- Working with them to plan and carry out engagement activities where appropriate

### **5. How**

The challenges to successful engagement are significant. An Ipsos MORI Survey undertaken in 2000 found some residents will want to be active citizens (about 4-5%), others only get involved when they see an issue having a major impact on themselves, their family or the place they live (25- 40%). Others are disinterested on all fronts (about 50- 60%), some because they believe they have no influence at all. There is not a 'one size fits all' solution to the issue of increasing engagement. This is why East Devon District Council has developed its Engagement Toolkit, which accompanies this Strategy and outlines methods of engagement.

As keeping people informed underpins successful engagement, the Council will continue to review, develop and follow its Communications Strategy in line with this Community Engagement Policy.

Relevant Heads of Service, Managers and Elected Members will be responsible for instigating Community Engagement activities, making sure that they are carried out correctly and acted upon.

### **6. Planning**

Engagement can be difficult to get right, and resource intensive. All engagement activities shall be planned as far in advance as possible and be given appropriate resources including both financial and expert technical resources.

At the beginning of the planning process advice will be sought from the Council's Engagement Toolkit and the Engagement and Funding Officer on all engagement

exercises. Advice and support will also be sought from those who are experienced in engagement and relevant fields to the topic of the project. Multi-agency working should also be used where possible. For example, if we are undertaking a project with young people look at involving youth workers, teachers and colleges for their advice, resources or assistance. We will avoid the contracting out of engagement projects to external companies wherever possible by fully using expertise already available.

## **7. Our Values**

In all of our community engagement activities, we will respect the following values:

### **Working with partners and co-ordinating engagement activities**

- co-ordinate community engagement activities, with the council and partners, to avoid duplication and 'consultation fatigue', caused by too much consultation and too little action and feedback
- provide leadership from the top, to ensure that community engagement influences services and plans.

### **Better access to engagement activities for more people**

- ensure that we take into account particular needs and overcome any difficulties participants may have to enable them to participate
- involve all communities, including those that are normally excluded
- ensure that there is equal access to services, and that services meet the needs of all communities
- ensure adherence to health and safety regulations

### **Be clear with everyone about what we are doing and why we are doing it**

- only use community engagement and consultation processes when there is a real opportunity for people to influence and change decisions and services
- be open and honest about the aims of community engagement activity and what it hopes to achieve
- ensure that community engagement activities are realistic and that expectations are not raised unnecessarily
- have clear processes to feed back to all relevant and appropriate people including the media, Elected Members and those involved in engagement activities on community engagement activity and outcomes and give reasons if unable to deliver on expectations
- ensure participants know what they are agreeing to take part in and how the information will be used

### **Consider confidentiality**

- All personal information gathered as part of community engagement activities will be processed fairly and in accordance with the Council's Data Protection Policy.

### **Be honest and respectful**

- ensure that community engagement activities are voluntary, and that participants can withdraw at any time
- ensure that information obtained from community engagement activities is honestly interpreted
- ensure that the rights and dignity of all participants are respected at all times
- respect the rights of participants to decide how much to reveal about themselves
- give careful consideration to activities, information and questions to ensure that they do not offend, cause distress or embarrassment

### **Communicate engagement activities**

- ensure that those most directly affected by plans and decisions are aware of opportunities for community engagement
- engage with key stakeholders and/or representative groups in advance of specific community engagement activities – to provide advance warning and to seek views on the most effective means of publicity

### **Have appropriate resources and time**

- devote appropriate financial and other resources, including staff time, to ensure engagement activities are valid and worthwhile
- ensure an adequate amount of time is given to plan and carry out engagement activities, it takes a minimum of 3 months to plan and carry out a small scale questionnaire to residents or plan and hold one residents focus group.

## **8. Recording Engagement Activity**

We will use a central consultation system that will be based on East Devon District Council's website. This will list all future, current and historic activities that engage people and will be for the use of staff, residents and Elected Members. It will be the responsibility of staff engaging with people to make sure that their activity appears on this central system and is updated with results and feedback.

## **9. Reviewing and Evaluating**

After the engagement has been carried out we will assess whether it has been:

**Confident-** working in ways that increase peoples skills, knowledge and confidence, and instil in them a belief that they can make a difference

**Inclusive-** working in ways which recognise that discrimination exists, promote equality of opportunity and good relationships between groups and challenge inequality and exclusion

**Organised-** working in ways which bring people together around common issues and concerns, in organisations and groups that are open, accountable and democratic

**Co-operative-** working in ways which build positive relationships across groups, identify common messages, develop and maintain links to national bodies and promote partnership working

**Influential-** working in ways which encourage and equip communities to take part and influence decisions, services and activities.

## **10. Skills and Training**

### **10.1 Community Engagement Group**

We have a Community Engagement Group of officers who are located in different services throughout the Council. They must be made aware of any engagement activities going on within their service area. The Council will commit to making sure that they undertake appropriate training and have the relevant knowledge to carry out this role.

### **10.2 Staff and Elected Members**

Staff and Elected Members will be given the knowledge that will lead to them feeling positive and enthusiastic about being involved in engagement activities.

Engagement training will be offered to relevant staff and Elected Members. This will be backed up by the advice and support offered by the Engagement and Funding Officer and others through individual projects, from which the people running the projects will learn skills.

We will work towards the culture of engagement being embedded in the running of East Devon District Council.

### **10.3 Public**

What do communities need to be engaged?

In order to engage people they need:

- Capacity building within communities
- Sufficient commitment of time and resources to take part
- Sufficient and appropriate information about the issues
- Accessible channels and a variety of methods- try and make it fun!
- Realistic options
- Honest feedback
- Above all- it needs to make a difference and needs to be seen to be making a difference i.e. be publicised

### **Outcomes**

Benefits of engagement for residents and the Council:

- Helps the council to plan services better
- More engaged and therefore more satisfied local communities
- Helps to prioritise council services and make better use of limited resources
- Helps to set performance standards relevant to users
- Helps residents and other stakeholders to understand the difficulties facing the council
- Alerts the council to problems quickly
- Is a symbol of the council's inclusiveness and openness.

From a participants point of view people will recognise:

- Their views count
- The council is actively listening and responding to their concerns
- The power they have through engaging with the local authority to shape the area they live in
- The difficulties the council faces in making decisions.

### **Who is responsible for delivery?**

- Heads of Service and Managers within East Devon District Council have the responsibility for meeting the Government's Duty to Involve criteria in April 2009
- Heads of Service and Managers will have the responsibility for making sure that all the Council's engagement activity is discussed with the Engagement and Funding Officer at the earliest opportunity and is carried out following the Community Engagement Strategy.
- The Engagement and Funding Officer is responsible for publicising this Community Engagement Strategy both internally and externally and providing advice and support on Community Engagement throughout the Council, and also ensuring shared learning.
- The whole Council is responsible for utilising opportunities where valuable community engagement could be undertaken and following the Community Engagement Strategy.
- Elected Members are responsible for advising Officers on possible engagement activities and also taking up opportunities to get involved in community engagement.
- The whole Council is responsible for making the Communications Officers aware of successful engagement exercises so they can publicise it through both internal and external communications channels.



## **Performance Monitoring**

The extent to which residents feel satisfied with the services they receive, the ease with which they can access them, their quality of life, and whether or not they feel able to influence the decisions which affect their local community will be formally measured through the bi-annual Place Shaping Survey. The Place Survey contains 18 National Indicators that East Devon as an area is assessed on, including NI4- the % of people that feel they can influence decisions in their locality.

Key findings on engagement from the 2006/ 2007 survey included:

- 48% of residents felt the Council informs them about the services and benefits it provides
- 27% agreed that they can influence local decision making affecting the local area
- 40% felt well informed about how to get involved in local decision making
- 52% felt the council promotes the interest of local residents
- 53% felt the Council acts on the concerns of local residents

When East Devon's results are compared to national District averages East Devon's results are equal to or less than the national average. East Devon is in the bottom 25% nationwide for '% of residents that agreed they can influence local decision making affecting the local area'.

When compared to the other District authorities within Devon, out of 7 East Devon District Council comes 5<sup>th</sup> or 7<sup>th</sup> in the ratings for each question.

This Policy will help us to improve on the results of this survey.

## **Policy Consultation**

East Devon District Council's Community Engagement Group  
Councillor Randall-Johnsons Think Tank  
Strategic Management Team  
Corporate Overview Committee  
Executive Board

## **Policy Review**

The Engagement and Funding Officer will review this Policy on an annual basis.

## **Related Policies and Strategies**

Complaints Procedure  
Communications Policy  
Equality and Diversity Policy  
Data Protection Policy  
Freedom of Information Policy  
Statement of Community Involvement



## APPENDIX 1

### National Policy and Legislation

Title	Date	Published by	Outline with regard to engagement
PSA Delivery Agreement 21	Oct 2007	H M Treasury	Building more cohesive, empowered and active communities
Governance of Britain	July 2007	Secretary of State for Justice	Increased accountability and local governance
Comprehensive Spending Review	2007	H M Treasury	An increase in the public deciding where spending is needed
Strong and Prosperous Communities White Paper	Oct 2006	Communities and Local Government	Giving local people and local communities more influence and power to improve their lives
Sustainable Communities Act	Oct 2007	Parliament	Promoting the sustainability of local communities by developing their role
Local Government and Public Involvement in Health Act	2007	Parliament	Giving authorities a duty to inform, consult and involve residents
An Action Plan for Community Empowerment	Oct 2007	Communities and Local Government	Enabling more people to play an active role in the decisions that affect their communities
Participatory Budgeting; A Draft National Strategy	Mar 2008	Communities and Local Government	Giving people more of a say in local spending
Councillor Calls for Action and Local Petitions- Consultation Paper	Mar 2008	Communities and Local Government	Placing a duty on local authorities to respond to all local petitions and investigate any areas of concern to local residents
Comprehensive Area Assessment	Apr 2009	Audit Commission	Assessing how residents make informed choices and are involved in decisions
Local Area Partnerships and Agreements	Ongoing	Communities and Local Government	Citizen involvement in monitoring and shaping their own local area
New Performance Management Framework	Oct 2007	Communities and Local Government	Includes key quality of life indicators on resident engagement
Communities in Control White Paper	July 2008	Communities and Local Government	Outlining residents power, influence and control and what should be happening with regard to engagement and empowerment in local authorities
Planning and Compulsory Purchase Act	2004	Parliament	Local Development Frameworks mean a crucial role of community involvement in planning process
Disability Discrimination Act	1995	Parliament	Equality of opportunity for disabled people to be involved in engagement





ALL-PARTY PARLIAMENTARY BEER GROUP

# COMMUNITY PUB INQUIRY

October 2008

## ABOUT THE APPBG

The **All-Party Parliamentary Beer Group** is a formally registered parliamentary group. It was established in 1993, and exists:

'To promote the wholesomeness and enjoyment of beer and the unique role of the pub in UK society; to increase understanding of the social, cultural and historic role of brewing and pubs in the UK, and their value to tourism; to broaden recognition of the contribution of brewing and pubs to employment and to the UK's economy; to promote understanding of the social responsibility exercised by the brewing and pub industries; to support the UK's brewing industry worldwide, and to promote a positive future for beer and the pub; achieved through a programme of meetings, briefings, visits and other activity.

It has approaching 400 members drawn from both Houses of Parliament. Current Chairmanship is John Grogan MP (Lab), who is supported by Vice-Chairmen Nigel Evans MP (Con), Nick Harvey MP (Lib Dem), Ann Keen MP (Lab) and Janet Dean MP (Lab) and a 22-strong Executive Committee representing all parties.

The Group receives graduated annual subscription funding, currently from 60 companies in the sector, ranging from the largest to some of the smallest, which is reported to the Commissioner for Standards according to the rules laid down by Parliament. This income funds the services of a part-time secretary and the other office services to run the Group, with small amounts being spent on hospitality from time to time.

The Group has received no additional funding for this inquiry nor sponsorship for this report.

The APPBG's **Community Pub Inquiry Panel** was jointly chaired by:

- **Janet Dean MP** (Lab) and
- **Nigel Evans MP** (Con).

Other members were:

- **Richard Benyon MP** (Con)
  - **Jim Dobbin MP** (Lab)
  - **Brian Jenkins MP** (Lab)
  - **Martyn Jones MP** (Lab)
  - **Madeleine Moon MP** (Lab)
  - **Greg Mulholland MP** (LibDem)
  - **Dr Rudi Vis MP** (Lab)
  - **Roger Williams MP** (LibDem).
- 
- **Lord Beaumont of Whitley** (Green) was a valued member of the inquiry Panel until his death in April 2008.



ALL-PARTY PARLIAMENTARY BEER GROUP

# COMMUNITY PUB INQUIRY

October 2008

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### Note

The appendices can be downloaded from [www.communitypubinquiry.co.uk](http://www.communitypubinquiry.co.uk)

For further information about the APPBG or the community pub inquiry, please contact:  
Robert Humphreys  
Honorary Secretary, APPBG  
Pentre Farm, Pentre, Bucknell SY7 0BU

Tel 01547 520724 or [humphreysr@parliament.uk](mailto:humphreysr@parliament.uk)





## LIST OF WITNESSES

### **First Hearing** 9th May 2006: Questions 1 - 20

- Tony Payne CBE: Chief Executive, Federation of Licensed Victuallers Associations
- Yvonne Cleminson MBII: Licensee, The Cherry Tree, Farnham, Surrey
- Janet Dooner: Licensee, The Railway Tavern, Stratford (E London)
- Mike Benner: Chief Executive, Campaign for Real Ale (CAMRA)
- Jonathan Mail: Head of Public Affairs, CAMRA

### **Second Hearing** 23rd May 2006: Questions 21 - 39

- John Longden: Director, Pub is the Hub
- Brigid Simmonds: Chief Executive, Business In Sport and Leisure
- Anthony Wallis: Retail Director, Charles Wells Ltd

### **Third Hearing** 11th July 2006: Questions 40 - 49

- Nick Bish: Chief Executive, Association of Licensed Multiple Retailers (ALMR)
- Dr Martin Rawlings OBE: Director, British Beer and Pub Association (BBPA)
- Andy Tighe: Chief Statistician, BBPA
- John McNamara: Chief Executive, BII
- Keith Bott: Society of Independent Brewers (SIBA)

### **Fourth Hearing** 20th July 2006: Questions 50 - 58

- John Healey MP: Financial Secretary to the Treasury

### **Fifth Hearing** 5th December 2006: Questions 59 - 70

- Jonathan Neame: Chief Executive, Shepherd Neame
- Pauline Smith: Licensee, Master Robert Inn
- Christopher Tattersall: Senior Partner, Lawrence Tattersall
- Dr Martin Rawlings OBE: Director (Pub & Leisure), BBPA
- Jonathan Mail: Head of Public Affairs, CAMRA

### **Sixth Hearing** 22nd May 2007: Questions 71 - 86

- David Sissons: Chairman, Doncaster Licensed Victuallers Association
- Nick Bish: Chief Executive, ALMR
- Paul Wigham: Chief Executive, The Bar Group Ltd
- Peter Coulson: Editor, Licensing Review

### **Seventh Hearing** 12th July 2007: Questions 87 - 105

- Sir Les Elton: Chair, Independent Licensing Fees Review Panel
- Francis Patton: Customer Services Director, Punch Taverns
- Cathie Smith: Director of Training, BII
- Dr Martin Rawlings OBE: Director (Pub & Leisure), BBPA

### **Eighth Hearing** 3rd July 2008: Questions 106 - 123

- Geof Collyer: Analyst, Deutsche Bank
- Kate Nicholls: Director of Communications, ALMR
- Simon Townsend: Chief Operating Officer, Enterprise Inns plc
- Dr Martin Rawlings OBE: Director (Pub & Leisure), BBPA

### **Ninth Hearing** 9th July 2008: Questions 124 - 139

- Gerry Sutcliffe MP: Minister for Licensing, Department for Culture, Media and Sport

# 1 SUMMARY AND RECOMMENDATIONS

- 1 Pubs are currently closing at an astonishing rate of 36 a week, up from 27 in 2007 (1409 for the year). Overall pub numbers have been falling slowly for 20 years, but the rate of decline has increased dramatically in the last three years. Forecasts for the rates of further closures are uncertain, but witnesses to the inquiry agreed that there are likely to be more.
- 2 Community pubs are not just village pubs. They are also urban and suburban locals where the licensee lives over the pub, employs local staff, sends his or her children to the local school, buys local produce and employs local tradesmen. Many are marginal concerns, but notwithstanding this, raise twice as much for the Treasury in duty as they earn for their licensees. When they close, the Treasury loses out on revenue, of course, but their local communities lose a social hub that raises an average of £3,300 for local causes and provides a range of other local support: sponsorship for sports teams, pensioner lunch clubs, shops, post offices, IT clubs, meeting rooms for local groups and even MP surgeries, library and prescription drop-offs and a host of other services.
- 3 Over 80% of pubs are small businesses, struggling to survive in challenging economic, regulatory and social conditions. Their future viability largely depends on their success in diversifying away from their traditional reliance on beer.
- 4 Pubs' beer sales are falling (down 8% - 10% since the smoking ban) and price differentials between on and off sales have widened dramatically in recent years. A pint in a pub used to be twice the price as in a shop; now it is up to seven times as expensive. Meanwhile, incomes from AWP machines are falling (down 20% since the smoking ban) and operating costs are up (now 45% of a pubs' turnover before rent). Home entertainment is competing for the leisure pound, exacerbated by cheap off sales of beer and the smoking ban, while the cumulative impact of regulation is tying licensees up for a day and a half a week: community pubs are hit by the same regulations as other small businesses, but with additional sector-specific burdens.

## 5 Main recommendations

The Inquiry's full list of recommendations is in section 7. The following summarises the key areas for government action:

- **Community pubs need better sponsorship across government**, with the regulatory burden impacting these small businesses examined and reduced as a priority. Future regulation must be road-tested in the trade before becoming law. (Paragraphs 125, 196)
- **Beer price differentials** between the on and off trade must be tackled and the Treasury must look at the wider impacts of beer duty before imposing any further increases on community pubs; Treasury and DCMS should **increase AWP stakes and prizes** and abolish machine gaming duty for the first fruit machine in each pub. (Paragraphs 62, 66)



- **Diversification for community pubs needs to be made simpler:** Better guidance is needed to ensure local authorities understand and support pubs' needs in the planning process and evaluate community contribution as part of planning proposals. Access to funding, finance and advice for pubs needs to be improved, with the flat rate VAT scheme and small firms loan guarantee schemes reviewed and government support given to spreading best practice through Pub is the Hub. (Paragraphs 145, 182, 186, 192)
- **Licensing needs to be made simpler and cheaper,** including the appeals process for community pubs. The spirit of the Licensing Act needs reinforcing to local authorities, with a code of practice to spread **best practice in enforcement** and to ensure costly & inappropriate conditions are not placed on licences. (Paragraphs 92, 100, 102, 105)
- **The impact of penalties and criminal sanctions on community pubs' livelihoods must be reviewed.** Local authorities must work with pubs and the Department of Health to address noise nuisance arising from the smoking ban. (Paragraphs 5, 113)
- **Funded training needs to be more accessible,** to allow licensees to develop necessary business skills to diversify successfully. (Paragraph 177)
- **Rate relief and rateable values need revising,** to ensure all community pubs can be rewarded for their community contribution through a discount to their rates, and the rating appeals process must be made more accessible. (Paragraph 137).

## 2 INTRODUCTION

66 The Government recognises the cultural importance of public houses in the UK, as centres of entertainment, as hubs for local communities, as a diverse and vibrant part of the hospitality industry and as a unique British institution that helps make our country so attractive to overseas visitors. 99

*James Purnell MP, then DCMS minister, Hansard 31 January 2006: 324W*

- 6 Community pubs are a unique British institution. Recognised as tourist attractions and acknowledged as national icons, they are part of the social fabric of tens of thousands of urban and rural communities.
- 7 "More a community centre than a mere public house" was one witness's description. They are the local focal point for an array of social, cultural and sporting activities, providing services ranging from darts and dominoes to dry cleaning and newsagents, from pensioner lunches and post offices to IT clubs and prescriptions.
- 8 However, they are an institution under threat. Community pubs are closing, and closing increasingly rapidly. At the start of this inquiry in 2006, CAMRA estimated 26 closures a month, with the net effect of community pub losses then largely masked by openings of new managed houses and town centre pubs and bars. This changed dramatically during the course of the inquiry, with BBPA's statistics showing closures averaging 27 a week (1409 in total) in 2007, rising to 36 a week now, a staggering 18 times faster than the rate in 2005. This year's survey by ALMR found a net loss of 10% in its members' community managed estate over the last year.<sup>1</sup> Over 60% of villages no longer have a local pub<sup>2</sup> and while witnesses were reluctant to forecast future closures, they were all agreed that the downward trend would continue.
- 9 Three years ago the All-Party Parliamentary Beer Group was sufficiently concerned about the threat to these small but vital businesses that it determined to undertake an investigation. An eleven-member Panel (see p.i) of volunteer members of the parliamentary Group set out to establish the role played by pubs in maintaining the social fabric of their communities and to examine what economic and regulatory pressures might be placing disproportionate burdens on them. The inquiry started in January 2006, and as it progressed it became increasingly clear that little consideration had been given to community pubs as a distinct part of the UK's leisure and hospitality trade, nor recognition paid to their value as socially cohesive enterprises. This was neatly illustrated by the fact that the Government Minister then with responsibility for social cohesion was unable to meet the Panel. We were, however, grateful for the attendance of John Healey MP, then Financial Secretary to the Treasury, and Gerry Sutcliffe MP, Minister for Licensing at the Department for Culture, Media and Sport.



1 ALMR oral evidence Q111  
2 Pub is the Hub written evidence

- 10 One witness explained: *"People don't use us as an outlet for beer, like supermarkets, but come in for the ambience, use us as a social meeting point."*<sup>3</sup> This side of the pub trade has been largely overlooked in media coverage of licensing hours, law and order and binge drinking, and other problems more typically associated with large town centre pubs and bars. However, the regulatory consequences have been visited on community pubs. Actions taken in response to problems with perhaps five or ten percent of the trade have caused further problems for the other 90 or 95%. Simon Townsend, Enterprise Inns explained: *"I don't believe that government discriminates enough between such community pubs and alcohol issues, or even recognises this role of pubs at the heart of their community. Legislation brackets all pubs and all alcohol together in one way."*<sup>4</sup>
- 11 The Panel took oral evidence from 26 individual licensees, trade bodies, companies and other organisations, and received written evidence from over 60 witnesses. Ministers were invited to respond to proposals concerning their areas of responsibility prior to the adoption of this report by the Panel. The APPBG would like to thank all those who took time to submit evidence, and in particular, to the licensees who gave valuable time away from their businesses to attend Panel hearings.

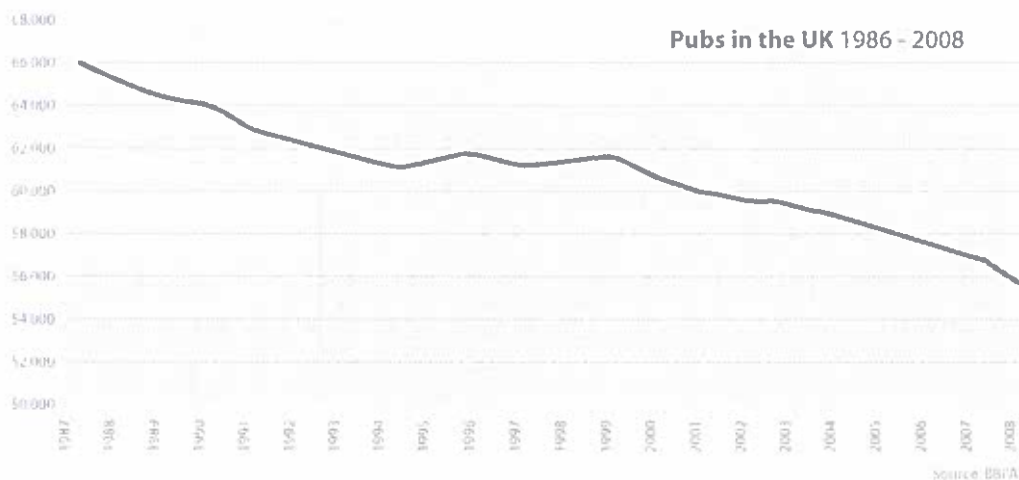
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3 Jonathan Neame oral evidence Q 59.4

4 Simon Townsend oral evidence Q 113

### 3 BACKGROUND TO CHANGES IN THE PUB SECTOR

- 12 The pub sector has changed significantly in the past three decades. After recovering from the recession of 1979-82, when beer volumes fell by an estimated 15-20% in the on-trade, ownership models were transformed by the 1989 Beer Orders.
- 13 The Beer Orders effectively broke the traditional ownership model in the sector, under which most pubs were owned by brewers whose beers they were obliged to sell. It delivered much greater price competition, as it was intended to do, and significantly shifted the balance of negotiating power in the industry.
- 14 Other significant factors hitting the trade in the same period have included a steady rise in the number of regulations affecting pubs' day-to-day operations and the availability of cheap, high-quality home entertainment and increasingly cheap supermarket beer. Significantly, from 1993 the sector was affected by the abolition of border controls and limits on personal imports of alcohol with the completion of the Single Market. Successive UK governments have since maintained very high Excise duty rates relative to those in neighbouring Member States, in spite of the abolition of fiscal frontiers, with low-priced beers from France leading swiftly to the introduction of cheap beer by supermarkets and other off-licences.
- 15 As was observed in a previous Beer Group inquiry, *"The United Kingdom has a system of licensing, especially of its 'on-trade' (chiefly pubs and clubs), which is designed to ensure thorough vetting of licensees' suitability, the supervision of their conduct and its periodic review. Its operation is our guarantee of proper, some would say too tight, control of drinking in public houses, our traditional preferred place to drink beer. The new Single Market smuggled beer network is by-passing this entire edifice and, in the process, placing the pub at some risk."*<sup>5</sup>





## From big brewers to small businesses

- 16 Structurally, the pub trade was transformed by the Beer Orders of 1989. Prior to this the national brewers' tied estates comprised over half the country's pubs; today they no longer exist and pub companies (pubcos) have sprung up in their place. Pubcos range in size from Enterprise and Punch, with 7,700 and 8,400 pubs each, to smaller multiple retailers, such as The Bar Group, with around 30 community pubs. The regional and local brewers between them own 9,400 pubs, slightly down from the 11,000 they owned in 1989.

Pub ownership	1989		2007
* Bass	7,190	Enterprise Inns	7,750
* Allied Domecq	6,678	Punch	9,095
* Whitbread	6,483	Admiral	2,400
* Grand Met inc Watneys and Trumans	6,419	Mitchell's & Butlers	2,067
* Courage	5,002	* Greene King	2,349
* Scottish and Newcastle	2,287	* Marston	2,325
* Greenall Whitley	1,600	* S&N Pub Enterprises	2,100
* Marston, Thompson	850	Country Estate	900
* Greene King	750	Wellington	835
* Wolves & Dudley	750	JD Wetherspoon	675
	<b>38,009</b>		<b>30,496</b>
1989 - 2004			
Percentage of total full on licences	46%		34%
Percentage of all on licences	26%		21%
* Pub owners who were/are also brewers			

Source: Beer Orders, Publican Pub Industry Handbook, DB Estimates

- 17 Pub ownership today falls into three main categories. **Managed houses** are owned by regional brewers and by pubcos and are managed by a salaried licensee and staff. These tend to be larger town centre pubs or branded outlets. **Freehouses** are owned or leased and managed by their licensee. **Tenanted and leased pubs** are run by licensees paying rent to a pub company or regional brewer, with some obligations to purchase beer or other products, but are otherwise run as independent small businesses. These last two categories account for over 80% of pubs in the UK and are, in the vast majority of cases, community pubs.
- 18 The business model behind these pubs has changed significantly since the Beer Orders and the advent of commercial leases. Previously, the main route into the trade had been to spend a few years learning the ropes in a managed house, as an employee, before taking on a short, three-year tenancy (with no opportunity to build then sell-on goodwill) to gain experience, before then investing in a freehouse.
- 19 Geof Collyer<sup>6</sup> explained that much longer commercial leases had since encouraged a greater stream of entrepreneurs into the business, attracted by the relatively low cost of entry and accommodation 'on the job'. Leases have given them the prospect of investing to develop their businesses over the long term, and the customary option to assign after a period means that for the better operators, there is now a major opportunity to extract a good capital profit when selling on the pub's goodwill.

- 20 The net effect has been a proliferation of much more independent small businesses within the pub trade. Over 80% of pubs are now run by sole traders, living over the pub, with their lives, families and business fully integrated in and supporting their local communities. The longer lease is now the dominant model and the old three-year tenancy an endangered species.

	1989	2007
Managed Houses	13,400	10,200
Tenanted/leased	30,700	30,200
Freehouses	20,000	18,000

Source: BBPA

- 21 As this report discusses, the implications of this growth in small business are far reaching. Regulatory burdens have a greater impact on individual licensees than on big business; economic pressures are less easily absorbed; and diversification into new business lines is less readily financed.

### From beer to other business

- 22 Community pubs have seen a marked change in their basic business proposition: beer. Industry statistics show a steady overall decline in the total amount of beer sold by both on and off licences, with an annual fall of between two and four percent in recent years (in 2007, beer sales were at their lowest since 1969, and have since dropped further). Significantly for community pubs, there has also been a marked change in how beer is sold. CAMRA informed us that in 1971, 90% of all beer sold was consumed in pubs whereas today it is approaching 50%, and BBPA statistics show pub sales of beer have fallen 49% from their peak in 1979, between 8-10% since the smoking ban, and are now at their lowest since the Great Depression of the 1930s.
- 23 Witnesses attributed this shift from on- to off-sales to several factors: changing leisure patterns, an increase in the numbers of outlets licensed to sell alcohol (such as petrol forecourts), the growth of in-home entertainment and aggressive price promotions by supermarkets and other multiple grocers, exacerbated by the smoking ban. A number of trade witnesses commented that they could buy beer cheaper in the supermarket than they could obtain it wholesale, and the differential between on- and off-sale prices has widened dramatically in recent years. One witness told us *"Looking back to the 1990s, there used to be an on/off 2:1 price differential, but it's now 7:1."*

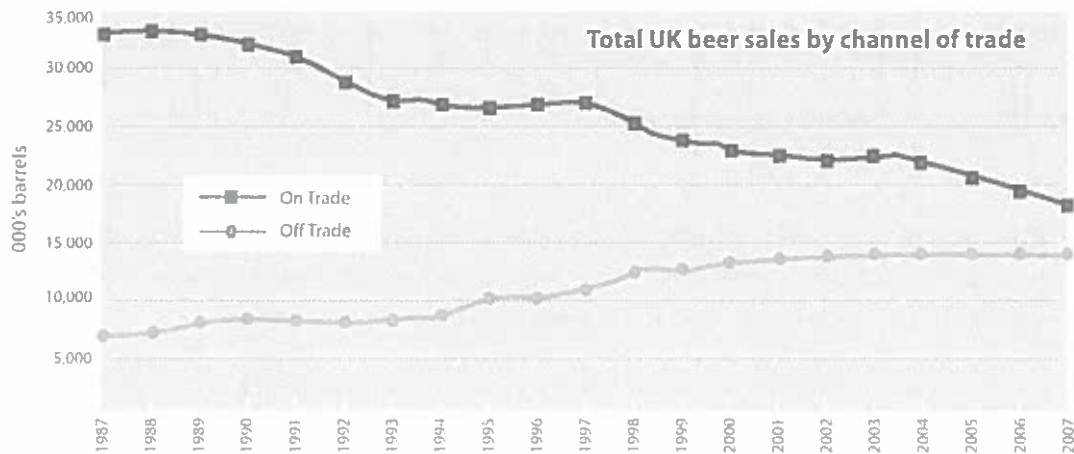
- 66 The problems of cross border shopping have now largely gone away because of supermarket prices. It would be far better to see people in pubs enjoying alcohol responsibly. 99

CAMRA<sup>8</sup>



7 Jonathan Neame oral evidence Q 63.6

8 CAMRA oral evidence Q 16.2



Source: BBPA Barrelage Survey 2008

- 24 Community pubs have been affected disproportionately by this change, as draught beer sales traditionally make up a relatively large proportion of their turnover.
- 25 At the same time, another mainstay of pub turnover has been hit as income from AWP's (amusement with prizes machines) has fallen, due to competition from bigger pay out fixed-odds terminals elsewhere, compounded by a further 20% fall since the smoking ban. See section 5 below.
- 26 The net effect has been to force many community pubs to diversify into other lines of business to try to make up for the fall in their traditional incomes. Initiatives include expanding their food sales, letting rooms for B&B and providing a range of other services from post office to village store to IT centre. The implications of diversification are examined further in section 5 below.

“ Without this change there would be few pubs still going today. ”

Tony Payne, FLVA

## Regulations, regulations, regulations

- 27 The pub sector has undergone significant regulatory change in recent years. The Licensing Act 2003 transformed the way pubs are regulated and the smoking ban, (introduced in England in July 2007 and in Wales two months earlier) posed major challenges for community pubs, seeking to replace lost trade whilst having also to face the costs of licence replacement or variations and of smoking shelters.
- 28 In addition to sector specific legislation, community pubs are subject to the health and safety and employment regulations facing all other businesses. The Association of Multiple Licensed Retailers (ALMR) pointed to over 240 pieces of legislation introduced since 1997 which have a direct impact on pubs and bars, including, in 2005, the new legislation on licensing, door supervision and gambling, which spawned 20 individual regulations for community pubs to keep abreast of.
- 29 The cumulative effect of these regulations on community pubs has been significant, as responsibility falls on individual licensees to understand, implement and keep up to date with regulatory change, without backroom support for payroll, legal and accountancy services. Increasing amounts of time - up to a day and a half a week - are now being spent by licensees, away from the bar, "just to stay legal."

30 The implications are examined in section 5 below.

The Federation of Licensed Victuallers Associations provided the Inquiry with a list of requirements for licensees taking over or leaving a business. This indicates the range of regulatory issues with which a licensee needs to keep abreast:

- Copy of lease and details of next rent review
- Copies of last three years' accounts
- Qualified accountant
- Solicitor conversant with licensed property leases
- Structural survey
- Copies of dilapidation report
- Copy of Health and Safety Risk Assessment and Policy
- Service records of outside play equipment, fire extinguishers, security systems, tills and other equipment used in the business
- Copy of fire risk assessments
- Copy of disability discrimination audit
- Asbestos survey
- Portable electric appliance test certificate
- Five year full electrical report
- Gas safety certificate
- Details of any hire purchase/rental agreement
- Copy of complete inventory schedule
- The premises licence
- Gaming licence/permits
- Necessary action for PRS and PPL
- Details of designated premises supervisor
- Details of staff training achievement
- Copies of contracts of employment for all staff
- Details of any disciplinary and grievance procedures that have taken place in the last two years
- Details of any tribunals in the last two years
- Any possible outstanding claims against the business
- Full and correct insurance cover for the business
- Copies of complaints by local authority personnel, police, neighbours etc
- Notification of changed address to Licensing Department



## 4 THE PUB AS THE HUB: COMMUNITY PUBS TODAY

“ More a community centre than a mere public house. ”

*Tony Payne, FLVA*

- 31 Witnesses agreed that the principle characteristics of a community pub are relatively easy to define. They may be in village main streets, in urban backstreets or in town centres, but in all cases are the traditional 'locals'. They are generally leased, or in a minority of cases may be owned, by individual licensees who live above the pub, running them as small businesses, sometimes with a partner although often the licensee's partner is employed elsewhere to generate additional income. They employ local part-time or full-time bar staff, local cleaners and local catering staff, and generally source their food locally and use local tradesmen; their children will generally be at the local school. The licensees are an integral part of their local community and work to support it.
- 32 The majority of customers will live locally - generally no more than a ten-minute walk or drive away - or the pub will be on their route home from work. *"It's a safe, friendly place to meet, it organises local events and it's a focal point for local and national events."*<sup>10</sup> They are centres for social, educational and recreational activities and a focus for local charitable activity: *"if someone has a problem in the area, they go to the local pub for fundraising help."*<sup>11</sup>
- 33 This inquiry received evidence of the wide range of activities laid on by community pubs, driven by the extraordinary commitment of individual licensees to their communities. Summarised, below, it points to pubs providing a widespread cohesive effect, not just through the activities organised, but in the facilities provided for other local organisations. Without the pub, they wouldn't happen.

### Community contribution

“ People don't use us as an outlet for beer, like supermarkets, but come in for the ambience, use us as a social meeting point. ”

*Jonathan Neame, Shepherd Neame*

- 34 **Charitable activity** The industry estimates that the average pub raises £3,000 pa for charity, although this is probably below the average for community pubs, given the efforts they put into raising funds for local good causes. Punch Taverns' written evidence to the inquiry included the results of a survey of its estate of 9,553 pubs, which found an average of £3,369 raised every year. Nationally, this represents a significant sum of £120 million a year for an enormous range of causes (an indication of the spread of interests was given in BBPA's written evidence). However, it is at a micro level that community pubs' charitable activity probably makes the greatest impact: through contributions to help sick children, to local hospices, church bell funds, jazz festivals, wildlife trusts, food festivals, playground equipment and memorials, for example.
- 35 Of course, some of this would happen if there were no pub at its focus, but often the existence of the pub is the crucial catalyst as well as the focal point for the activity.

<sup>10</sup> Anthony Wallis oral evidence Q 32.2

<sup>11</sup> Tony Payne oral evidence Q 1.2

- 36 **Sporting activity** Punch's survey found pubs running an average of one and a half teams, ranging from traditional pub games such as skittles, dominoes and darts to bowling greens and golf, rugby and football teams. Given an average of eight people taking part in each sport, this means several hundred thousand people are brought together in some form of activity each week by their local pub. Apart from the cohesive and health benefits locally, there is a national gain, too. As one witness pointed out: *"We wouldn't have a British World Snooker champion if people didn't play in pubs and clubs."*<sup>12</sup>
- 37 **Social** In addition to their role as social hubs where people can congregate, pubs provide a meeting room for local societies, from the WI to veterans' associations, generally with tea and coffee provided free. A pub's function room can be an enormously important community facility, in some cases the only local alternative to the school hall (if there is one nearby) and as one landlady told us, *"If the pub weren't there these local organisations would probably fold; the local pubwatch certainly would."*<sup>13</sup> Some pubs are even used for MPs' surgeries.
- 38 Alongside their main catering, licensees commonly provide pensioner lunches and buffets and other meals for the various sporting and social activities they host. *"We started a pensioners' lunch which we now offer to everyone, three days a week, at £5. And if they're housebound they phone their orders through to the chef and I deliver them."*<sup>14</sup>

## Licensees' contribution

- 39 Community pubs' success depends on licensees and their commitment: *"I train tenants to be landlords from the heart: give yourself to your pub and community."*<sup>15</sup>
- 40 Several witnesses pointed out that licensees are driven by more than money alone. *"They are doing it because they like it rather than for the money and those individuals are getting harder to find."*<sup>16</sup> *"It's a way of life and a matter of passion, 24/7, not just a business. If you go into it with that mindset you'll fail."*<sup>17</sup>
- 41 The changing dynamics of the industry have had significant impact on the nature of licensees' jobs. Pubcos' commercial leases offer relatively low costs of entry (from around £10,000) for people seeking an unbranded franchise, rather than a branded one such as a Pizza Hut or Prontaprint. Simon Townsend of Enterprise explained they tried to ensure that an individual's decision to take on a pub is taken for the right reasons: *"Enthusiasm is not enough. We filter out those who are simply looking for a lifestyle change, as it will almost certainly be the wrong decision for them, they are more likely to fail and the worst thing for us is a closed pub."*<sup>18</sup>
- 42 Regulatory requirements discussed in paragraph 25 mean an increasing amount of time is spent on basic compliance. Declining beer sales have also had a profound impact on licensees' jobs, as new skills are needed to diversify successfully into other lines of business. However, training in the form that most licensees need it, that is in bite size modules and on the job, does not currently attract funding. The implications of this are discussed in paragraph 177 below.



12 Brigid Simmons oral evidence Q 30.2

13 Yvonne Clemminson oral evidence Q 8.6

14 Pauline Smith oral evidence Q 65.4

15 Yvonne Clemminson oral evidence Q 8.9

16 Anthony Wallis oral evidence Q 38.4

17 Pauline Smith oral evidence Q 66.2

18 Oral evidence Q 120



## Economic contribution

- 43 Community pubs provide an estimated 350,000 full or part-time jobs,<sup>19</sup> and for each one of these, an estimated further 1.3 jobs are created in the wider economy. Nationally, the pub industry accounts for 2% of GDP,<sup>20</sup> and at a local level, BII estimates that each pub injects at least £80,000 into its local economy. The total UK tax raised from sales of alcoholic drinks was £14.7bn in 2007/8, 3.7% of total Government revenue, and total duty and VAT raised from fruit machines in pubs still brings in a further £175 million to the exchequer, even after recent falls.<sup>21</sup>
- 44 The following example shows that a marginal community pub, which has become increasingly marginal during the course of this inquiry, generates twice as much in duty and VAT (£23,862) for the exchequer as it does in profit before rent for its licensees (£12,200).
- 45 The Wheatsheaf, Blandford, Dorset, is a backstreet pub offering some 50 regulars a good choice of beers. It serves food at lunchtime, offers pool and darts, and last year raised £1,800 for charity.

	2006	2008
Turnover (gross)	£125,000	£100,000
Gross profit (48%)		£40,800
Domestic rates		£1,200
Wages		£5,000
Overheads		£20,000
Profit before rent	£25,000	£12,200
VAT on sales	£18,617	£14,900
Beer Duty	£9,612	£8,962
Business rates	£2,200	£2,400
Total tax generated	£30,989	£26,262

Source: Hall & Woodhouse plc

- 46 The options for the owner of a marginal community pub are limited. As Hall & Woodhouse pointed out in their written evidence to the inquiry, if diversification initiatives fail and planning prohibits change of use, or partial change of use, they are left with three far-from-attractive options: to appoint a new tenant in the knowledge that they will not succeed, to run the pub for no return, or to close the pub and board it up. As H&W said, "*the first is morally reprehensible and the second and third will not help the owner to stay in business.*"

19 Source: BBPA

20 *ibid*

21 *ibid*

## Diversification initiatives

- 47 The smoking ban focussed the pub sector's attention on the imperative of increasing turnover from food and other sources. This was particularly true for community pubs, hit hard by falling beer volumes and AWP incomes. There have been some notable success stories, but it has been made clear to us that these owe much to substantial investment of resources and to the resilience of licensees, and little to central or local government encouragement of pubs' preservation or support through the challenge of transition.
- 48 Pub is the Hub is a largely volunteer-run organisation which has been working over seven years to encourage social enterprise and diversification projects in struggling rural pubs. To date, they have helped nearly 360 successful projects off the ground, with advice on co-locating services or helping communities to buy their pubs.
- 49 Pubs have become the local hub for processing prescriptions and dropping off dry-cleaning; they have become the local newsagent, baker, post office and library; they host MPs' surgeries and IT training and have become a market stall for local producers. PiTH told us in written evidence that the provision of additional services is "*often not a highly profitable venture, but one that can be measured more in terms of community spirit.*" Crucially, it means that footfall returns to the pub.
- 66 The shop opened in October 2005 and is absolutely fantastic. It's now the hub of the village: a place to meet, to shop, draw your pension, and so on. It's really brought the community together. People now know each others' kids because they have a focal point. They can get a pint and their pension. And it's opened up the pub to people who wouldn't have gone before, by getting them in for a coffee. It's really more of a social centre than a pub. 99

*Pauline Smith, The Master Robert Inn*

- 50 A number of obstacles exist, however. Securing planning consent, access to finance and available grants, adequate training and barriers to community ownership can all pose problems. These issues are addressed below in section 6. As one witness told us: "*The main obstacle to diversification is the raft of legislation for setting up as a small business, and there's a lack of individuals who want to take on additional facilities when the chances of failing are quite high ... some pubs may need to change their style of operation, by providing rooms for letting as B&Bs, for example, but often such pubs find that by the time they've come out at the other end of the process they're exhausted - both physically and in terms of capital expended.*"<sup>22</sup>



## THE MASTER ROBERT INN

diversifying to become the hub of the village

Pauline Smith and her partner took over the Enterprise pub, the Master Robert Inn, three years ago. Both were new to the trade and picked the pub *"because it was run down and so a challenge. We wanted to become part of the community and brought the family along with us."*

The village had previously lost its shop and post office, twice, leaving the nearest shop five miles away. Pauline converted the pub's function room into a shop and post office, which opened in October 2005 and quickly became the hub of the village.

The shop is viable because of the post office, and Pauline's salary as post mistress justifies her time away from the rest of the business. It currently pays its own bills but Pauline says they hope for more: *"We've committed to putting the profits back in the community, the first year it was £20, and last year £100, to the church. We've got the idea going of spending in the shop to invest in the village."*

In the pub, food is now on offer seven days a week and the B&B occupancy has risen from 11% to 80%.

The process was far from easy and advice was not readily available. *"There's no leaflet you can pick up. Pub is the Hub was a fantastic source of information, but I would have had difficulties if I hadn't found them."* The local council, for example, supported the idea of a local community shop and post office but not the idea of private enterprise running it. It thus took the active support of the village association, applying for grants on the pub's behalf, to get the project off the ground. Their pubco, Enterprise, loaned them other funds.

Rates proved another hurdle. Pauline had assumed that rates would go down, as the pub's function room had switched over to the shop and the shop qualified for rate relief because of the post office. Instead, she was told they owed an extra £5,000 for the shop's rates. She says *"They took me all the way to the court door, before I got an email saying we were entitled to the 100% rate relief on the shop - but I still haven't got a discount for the loss of the room in the pub."*

Altogether, the Master Robert now employs 10 local people: two in the shop and post office, two chefs, three to four waitresses, two to three barstaff and one housekeeper. The bureaucracy remains a major headache. Pauline commented: *"Where should I start? It's difficult for a small business to survive. Authorities generally highlight what's being done wrong and there's no reward for doing it right - for example with a rate reduction. I think this would be very important."*

*"I'm having to put a lot in now. We're getting there because people are loyal... someone offered to buy me a drink because they said the value of their house had risen £10k since the shop opened."*

*"We've made it a success because we responded to what the community wanted. We lay on special functions all the time, celebrating every anniversary. It's not about going to the pub to get drunk. We started a pensioners' lunch which we now offer to everyone, three days a week, at £5. And if they're housebound they phone their orders through to the chef and I deliver them. We're closing for six weeks' refurbishment from January and I have had to hire the village hall for our lunch club."*

## 5 PUBS UNDER PRESSURE

### Economic pressures

- 51 Like other areas of retailing, community pubs have felt the effects of the current economic squeeze. Income is down and costs are up, with pubs' operating costs now averaging 45% of turnover, before rent, whereas landlords had previously allowed for 32%.<sup>23</sup>

#### Falling beer sales

- 52 Community pubs can no longer rely on beer sales to make a living. Witnesses attributed the decline in beer sales through the 'on' trade to a number of factors: the availability of cheap beer from supermarkets, the increased number of outlets for off-sales, a change in leisure patterns with more people opting for home entertainment (a move exacerbated by the smoking ban), and the impact on price of successive increases in beer duty.
- 53 An illustration is provided by The Wheatsheaf, Dorset, described in paragraph 45 above. This community pub saw sales of beer and cider fall 7.1% in 2006, a further 16% in 2007, and a further 5.6% in 2008.
- 54 In the last decade, beer duty has risen at a faster rate than other forms of alcohol taxation, by 27% as against 16% for wine and 3% for spirits. Community pubs' slender margins generally won't allow them to absorb increases in duty, leading to ever greater differentials with supermarket off-sales. The 2008 Budget imposed a further 8p pint increase, and proposed a 2% above inflation duty escalator going forward. BBPA pointed out *"Each time tax rises it gets worse. Supermarkets are not accepting the increased prices from the brewers, whereas pubs have no choice and suffer all the add-on costs as well."*<sup>24</sup>
- 55 Looking back to the 1990s, there used to be a on/off 2:1 price disparity, but it's now 7:1... supermarkets are selling beer for less than the price of coke - about 40p a pint, which is roughly equivalent to the amount of duty we have to pay on each pint. *99*  
*Jonathan Neame, Shepherd Neame*
- 56 This differential impact of the recent Budget change on beer sales was demonstrated in the BBPA's quarterly 'beer barometer' for the period April to June 2008: on-sales fell 10.6% (1.6 million pints fewer a day) compared to the same quarter in 2007, whereas off-sales rose by 3.8%.
- 56 Witnesses agreed that pubs could not hope to compete with supermarkets on price and we heard considerable bitterness that they had been struck by a double whammy: losing sales because of rising duty, and being blamed by media and Government for fuelling a binge-drinking culture. *"One of the problems is that drinking is a teenage rite of passage, but whereas in the 1970s most licences were in pubs, the last 40 years has seen an increase in off licences from fewer than 10,000 in 1970 to now more than 50,000."*<sup>25</sup>



23 ALMR oral evidence Q 111

24 Martin Rawlings oral evidence Q 122

25 Geof Collyer oral evidence Q 122

- 57 The evidence certainly points to beer excise duty being an ineffective or rather a counter-effective weapon against alcohol misuse, hitting on-sales in the controlled environment of a community pub whilst actually encouraging an increase in off-sales.
- 58 The Panel is strongly of the view that the present approach, which permits alcohol to be sold at or below cost, or even just deeply discounted, in the off-trade as if it were an ordinary commodity, and which in turn gives rise to unsupervised drinking at prices with which responsible community pub licensees cannot possibly compete, cannot continue.
- 59 Witnesses proposed a number of solutions. CAMRA and Shepherd Neame recommended a reduced rate of excise duty on sales of draught beer, as opposed to beer sold in bottles and cans, to entice customers back into pubs, or a rebate on sales; SIBA suggested the threshold for progressive beer duty should be raised. We raised these questions with John Healey, then Economic Secretary to the Treasury, who responded that the Treasury's room for manoeuvre was limited under EU directive 92/83.
- 60 We urge further investigation by the Treasury of possible routes, via VAT rates or otherwise, to deliver a differential effect between on and off sales of beer.
- 61 The Government has meanwhile commissioned research into alcohol-related harm and its relationship, if any, to promotions and pricing. DCMS Minister Gerry Sutcliffe told us *"For Government to interfere in the market is a serious step, but the decision will flow from the review. I know that this Chancellor does listen, and DCMS, as sponsors, will put the industry's views forward."*<sup>26</sup> From this inquiry's perspective, the industry's views are clear. Minimum pricing may be a long-term solution but something needs to be done quickly.

## 62 Recommendations

**We urge the Treasury to initiate a review of options for addressing the distortive effects of the present approach to the taxation of alcohol. The proposed duty escalator must be halted until the Treasury has had time to review the wider social impacts of beer duty in driving drinking out of the controlled atmosphere of pubs, and in forcing the pace of closure of a further tranche of community pubs. In particular, the Treasury should review:**

- **the significant differential between on and off prices in the UK before imposing any further increases on the pub trade**
- **this Inquiry's recommendation for a reduced rate of duty and/or VAT on sales of draught beer, to reverse the trend away from drinking in public places or getting 'tanked-up' at home before a night out, and back into the regulated environment of a pub**
- **minimum pricing as a longer term solution.**

## Falling Amusement with Prizes machine incomes

63 Income from AWP machines traditionally provided community pubs with a valuable supplement to beer sales. However, it has fallen 40% in the last year,<sup>27</sup> in part due to the smoking ban and partly due to tough competition from other forms of gaming.

64 We've seen our income from AWP machines fall by 30% since 2003. Most customers prefer the higher stakes gaming next door in Corals, or over the internet - or even bets placed by text over the phone. 99

*Paul Wigham, The Bar Group*

64 The inquiry first raised this issue with the then Treasury minister, John Healey MP, in July 2007 and an increase in AWP stakes and prizes was later implemented - after some delays in co-ordination between Treasury and DCMS. It soon became clear this was too little, too late, as AWP incomes fell further in the wake of the smoking ban. DCMS responded by bringing forward a review of AWP stakes and prizes, with consultation this autumn.

65 The Panel was told that an increase to £50 might make a difference, while £75 would make pub AWP machines competitive, but that if the Government really wants to throw community pubs a lifeline, they should abolish machine gaming duty. This costs licensees £740, an up-front, per machine fee, which at present has to be paid before they are guaranteed even a penny back in takings. It was put to us that its abolition could "create an excellent incentive to licensees who can't afford to take the present risk to have a go with one machine, and in the end this might also deliver a net benefit to the Treasury."<sup>28</sup>

### 66 Recommendations

**We welcome the Government's review of AWP stakes and prizes and support an uplift sufficient to ensure community pubs machines become competitive.**

**An additional boost should be given to community pubs by abolishing machine gaming duty for at least the first machine in each pub.**

## Rising entertainment costs

67 DCMS minister Gerry Sutcliffe told the Panel "We recognise that pubs have had to diversify following the smoking ban, and showing sport and providing food are some of the areas."<sup>29</sup>



27 ALMR oral evidence Q 111

28 Martin Rawlings oral evidence Q 112

29 Gerry Sutcliffe oral evidence Q 128



- 68 Entertainment costs have increased significantly for community pubs, however, now representing their third biggest cost according to ALMR survey evidence. The loss of the 'two in a bar rule' (whereby no licence had been needed for two performers under pre-2003 licensing law) has contributed to this increase, and the costs of Sky and PPLs have continued to rise.<sup>30</sup> At the start of the inquiry, we were told that Sky was generally a cost pubs couldn't afford to do without. However, ALMR's survey evidence suggests this has now changed, as community pubs' outgoings on live music and entertainment fell 31% over the last year, whilst costs of PPLs and Sky did not, "which suggests that community pubs must be dropping it in order to reduce overall costs, given that it's one that can be eliminated."<sup>31</sup>
- 69 Charges for Sky are determined by a pub's rateable value. This means that for smaller pubs in higher rated rural areas, it is particularly unaffordable. We urge DCMS and BERR to consider the question of competition here. The contribution that community pubs make to social cohesion depends on their survival, and it has been asserted that Sky's approach to pricing small commercial customers as against individual private subscribers is deliberately skewed so as to discourage collective showing of matches, and to maximise private subscriptions. If the Government is so minded, there may be grounds for a referral to the Competition Commission.

## 70 Recommendation

**Sky should support community pubs by recognising that these pubs' low profitability but high rateable values impacts the affordability of Sky, and should vary their prices accordingly.**

### Increases in other operating costs

- 71 Witnesses pointed to a range of other costs which have risen significantly in recent years, denting their profitability, including utility costs and the costs of complying with new regulatory requirements including the Licensing Act, the Disability Discrimination Act and the smoking ban. ALMR reported an average investment of £6,000 for the last. Most significantly, however, employment costs have risen, now making up more than half of community pubs' operating costs, whereas in 1997 they represented 17% of turnover.<sup>32</sup>

## Rates

- 72 Rates represent a significant cost to most small businesses, and licensees are no exception, commonly paying both business rates and council tax on the property. We received various representations about how the valuation process could and should be improved. In particular, there was concern that the present system, whereby rates are calculated by reference to potential rental value, is effectively a tax on success - the more the pub improves its takings, the larger its subsequent rating bill. It was also pointed out to us that as a significant proportion of pub turnover is made up of excise duty, pubs' rateable values are unfairly inflated.

<sup>30</sup> ALMR oral evidence Q 111

<sup>31</sup> *ibid*

<sup>32</sup> ALMR supplementary evidence and oral evidence Q 111

- 73 Having examined the evidence, the Panel sees pros and cons to all methods of calculation. The present system clearly hits some licensees hard, but alternatives such as valuation by floor area would penalise others - such as a small pub with a large skittles area. It was also made clear to us that removing duty from calculations of turnover would make no significant difference.
- 74 As Christopher Tattersall explained: "*Rateable values are an expression of rental values. You take as much evidence as possible of actual rental values and convert into a proportion of turnover to give a method of comparing one pub with another... This means that arguments that duty should be taken out of calculations of turnover wouldn't work: turnover would decrease but the proportion representing the rent would increase, so RV would stay the same.*"<sup>33</sup>
- 75 However there are clearly some glitches in the rating system which we ask the DCLG to review:
- 76 **Rating other services**  
Pubs should not be penalised for diversifying into ancillary services such as a shop, bakery or post office. The Valuation Office concurs with this in the 'Approved Guide to Valuation of Public Houses', agreeing that pubs will not be penalised as long as turnover from other services doesn't exceed the turnover of the pub. In reality, however, it appears this hasn't been taken on board by all valuation officers. Pauline Smith, of the Master Robert Inn, switched a function room over to use as a shop and told us: "*The valuation officer came out to us as soon as the shop opened. I'd assumed that the pub rates would go down, as the function room had switched over to the shop, instead of which they told us we owed an extra £5k for the shop's rates - even though it actually qualifies for rate relief because of the post office. They took me all the way to the court door, before I got an email saying we were entitled to the 100% rate relief on the shop - but I still haven't got a discount for the loss of room in the pub.*"<sup>34</sup>
- 77 **Rating appeals**  
Written representations were received about the appeals process. In oral evidence, Simon Townsend of Enterprise Inns told us "*the appeals process is very cumbersome - Enterprise has to provide a free service to its licensees to help them appeal - and the rating process in no way recognises what's being done by the pub as part of its community*"<sup>35</sup> (Q113). This latter point is discussed in section 6 below.

## 78 Recommendations

**The five-year rating cycle clearly causes problems for pubs as their trading may vary significantly in this period.**

**The rating appeals process needs to be made more accessible to pubs.**

**Improved guidance needs to be given to valuation officers about pubs' diversification initiatives.**

**Rate relief must be reviewed to ensure it better reflects community contribution (see recommendations in paragraph 137 below).**



<sup>33</sup> Christopher Tattersall oral evidence Q 67.2

<sup>34</sup> Pauline Smith oral evidence Q 65.2

<sup>35</sup> Oral evidence Q 113

## Regulatory pressures

“ Legislation should be clear and cover all circumstances. It shouldn't leave the industry to operate on a knife edge. ”

Tony Payne FLVA

- 79 The inquiry asked for evidence of regulations placing a disproportionate burden on community pubs. A wide range of issues was identified, ranging from statutory sick pay to fire safety and refuse collection, but it became evident that the main problem for individual licensees is not so much any specific regulation as the cumulative burden, and its enforcement. Thus in some cases, calculating SSP (and waiting for re-imburement) was the final straw for a hard-pressed licensee, in others it was the paperwork for HACCPs and new food control regulations, and in yet others it was repeat visits by enforcement officers to go through paperwork at peak trading times.

### The cumulative impact of regulation

“ Burdens fall greatest on the sole operators. They've less to fall back on than larger companies and a small slippage in their profitability brings them closer to the margin. ”

Nick Bish ALMR

- 80 Witnesses provided graphic illustrations of the paperwork facing licensees. Marstons gave us a 'compliance box' and the FLVA presented examples of the summaries it had prepared for its members to help with compliance: *"Take for example over 120 pages on the working time regulations, which I condensed into 3 pages for my members. And on TUPE, there's over 80 pages to go through on the website. We desperately need 'idiot's guides'."*<sup>36</sup>
- 81 We were told that *"It's more the fear of not knowing that seems to be off-putting"* (Anthony Wallis), a point endorsed by Simon Townsend who said: *"The burden on sole traders is more than just a burden of costs. There's also the burden of receiving information, understanding, implementing and keeping up to date. Regulators don't seem to think about this hideous burden of administration on small traders, and almost all pubs are small traders. It's very, very difficult for them."*<sup>37</sup>
- 82 An additional problem was defined by Martin Rawlings of BBPA as 'non-legislative creep', where local authorities and other enforcement bodies are adding to licensees' costs by creating 'paper chases' for them, for example through "'socially acceptable contracts', seeking to make local alcohol strategies licence conditions."<sup>38</sup>
- 83 In evidence to the Panel the Licensing Minister committed to looking at these burdens and at the outcome of the Better Regulation Executive's investigations of the industry, as well as this report's findings and recommendations.<sup>39</sup>

36 Tony Payne oral evidence Q 7.2

37 Oral evidence Q 114

38 Martin Rawlings oral evidence Q 112

39 Gerry Sutcliffe oral evidence Q 129

84 DCMS mentioned that the local better regulation offices would have a role to play in consistency and enforcement of legislation.<sup>40</sup> We intend to keep this under review.

## 85 Recommendations

**All government guidance should be brief and to the point. It should be for departments to achieve brevity, not for others to have to translate their communications.**

**We urge DCMS to place particular emphasis on making sure regulatory simplifications deal with minor matters as much as major ones, and that savings made from a few 'big ticket items' do not distract attention away from the many smaller issues burdening pubs.**

## Enforcement

86 As well as keeping on top of regulation, "Authorities generally highlight what's being done wrong and there's no reward for doing it right" commented Pauline Smith. This was endorsed by Martin Rawlings: "They all seem to be trying to find ways of punishing licensees rather than rewarding or incentivising them. For example, with underage drinking, everyone behind the bar is effectively working as an enforcement officer, but all attention is on catching them out rather than helping them to do their jobs."<sup>41</sup> And "It's become inspection-led and formalised as never before. The Government's alcohol harm reduction strategy means licensed premises are being used to deliver things for the Government over which they have no control."<sup>42</sup>

87 Inappropriate and inconsistent enforcement seem to be particular failures under the Licensing Act.

66 The main problem facing small pubs is enforcement, such as late calls from police officers and licensing officials asking for the premises licence as well as the copy, at 11.30pm when we're winding up for the day. And problems such as in Barnsley where the licensee has been going on holiday to Spain each year for the last eight years, leaving the same person in charge, but this year the police officer called and said the personal licence holder needed to be present and closed them down for two days. 39

*David Sissons, Doncaster LVA*

88 ALMR told us: "Pubs are nearly 24/7 businesses, so visits by enforcement officers to go through minute details take their toll. We've no problems with dealing with the application of regulations, but we have with regimes that are being inspection-led."<sup>43</sup>

89 And Martin Rawlings of BBPA said: "Increasingly councils are trying to rein back on the additional scope and freedom the Licensing Act was intended and designed to provide, particularly with noise, where residents are in action over music, in particular. Pubs are told to diversify to survive in tough times, with music etc, but when they try to do so, some councils are not playing the game."<sup>44</sup>



40 Gerry Sutcliffe oral evidence Q 129

41 Martin Rawlings oral evidence Q 114

42 Nick Bish oral evidence Q 78.3

43 Nick Bish oral evidence

44 Martin Rawlings oral evidence Q 112

- 90 Related to this, there is growing concern about how the enforcement obligations under the new Act are changing relations between police and licensees: *"Before, there was generally a good relationship, picking up the phone and working together to get rid of criminals from pubs etc. But lately, it's been more of a catch-out relationship. There's a changed mentality. And the police have the power to close pubs, whether they are right or wrong in so doing, and while it's being sorted out the pub still has to employ staff whilst losing business. For example, we've had threat of closure for a damaged CCTV camera. This never would have happened under the previous regime."*<sup>45</sup>
- 91 Gerry Sutcliffe told us that DCMS was aware of these problems: *"We're looking at a yellow card/red card system. I agree that it should be about light touch regulation and ensuring common sense prevails."* He also said that a recent seminar had been held with the Home Office, LACORS, police and the industry specifically to address some of these issues. We share his ambition that this leads to greater consistency,<sup>46</sup> but ask that it be kept under close review and that DCMS should meanwhile urge LACORS to draw up a code of best practice to set standards of enforcement which help both licensees and enforcement authorities to understand each others' needs, and which ensure that the Licensing Act is enforced in the 'common sense' spirit intended.

## 92 Recommendations

**We call upon DCMS to ask LACORS to draw up, adopt and promote a code of best practice in the application of licensing law to public houses with a view to improving consistency and lightness of touch in this area.**

**We would like to see a 'green' card included in the 'yellow card/red card' range of approaches advocated, with "enforcement" viewed as a last resort to be used only after encouragement, training and guidance have failed.**

**Recognising that enforcement has too often displaced encouragement, we also recommend that reductions in rates should be introduced for those pubs making specific social contributions (see section 6).**

**We intend to keep this under review.**

## Criminalisation

- 93 An increasing number of criminal sanctions pose a real threat to licensees' livelihoods - in some cases apparently wildly out of proportion to the seriousness of the transgression. A licensee convicted of a 'relevant offence' loses his or her personal licence and hence the freedom to pursue their trade. These offences include copyright theft, meaning that showing a satellite football match without necessary permissions could cost a licensee their job, and substitution of spirits, essentially a commercial fraud, which appears a somewhat disproportionate sanction.<sup>47</sup>

45 Paul Wigham oral evidence Q 78.2

46 Gerry Sutcliffe oral evidence Q 129

47 Full list of relevant offences in Annex C, DCMS Guidance issued under section 182 of the Licensing Act 2003



- 66 There's a feeling we're being criminalised by regulations. In one pub, we've had the same person (a local licensing officer) sitting down (visiting the pub) three weeks in a row, going through the same issues. 99

Paul Wigham, *The Bar Group*

- 94 The threat of temporary closure also threatens livelihoods, with the pub closed pending appeal. Many community pubs simply do not have the margins to make good lost trading even if they win on appeal, and neither police nor licensing committees seem to have much grasp of the significance of such penalties. If the financial costs of a temporary closure order are compared with fines for relatively serious offences then some serious discrepancies emerge.

## 95 Recommendation

**Pubs should not be closed before an appeal is heard, where lodged, and DCMS should draw up and publish guidance on the appropriate length of closure orders in relation to varying offences and circumstances so as to ensure that the tariff is fair relative to other penalties.**

**The tariff of 'relevant offences' for personal licence holders should also be reviewed to ensure penalties are proportionate to offences, with consideration given to alternative forms of training or guidance for first offenders in specific circumstances, in a similar spirit to 'speed awareness' courses for first time motoring speed offenders.**

## Specific regulatory issues

### Licensing

- 96 Sir Les Elton told the inquiry: "Everyone worked hard making the implementation successful, but they need to continue to ensure best practice so the objectives of the legislation get realised with as little conflict as possible."<sup>48</sup>
- 97 The Licensing Act promised long term benefits to the pub trade, cutting costs and allowing pubs to use the 'flexibility offered to better meet the needs of local people and visitors.' However, the short term costs have been considerable for community pubs. While witnesses generally agreed that the Act is now 'bedding down' well, we heard that "community pubs have really lost out in a big way - they can't afford expensive lawyers and the right advice."<sup>49</sup> Specific concerns, apart from the enforcement issues mentioned in paragraphs 86-92 above, include:
- 98 **Variations** Costs can mount up to £1,000 for a simple variation. We were told of one example where, to move a serving hatch, the pub had to apply for a variation because it meant an alteration to the plan of the premises. This meant £195-£200 for a new plan, £200 to advertise, copies to all relevant parts of the authority and a month's delay to wait for a determination. Under the previous system it would have involved a £12 fee and an instant decision by the Licensing Justices. "The process was developed to allow locals a voice in a major variation, but community pubs are being particularly hard hit by it. If they need a smoking shelter there is no risk to the licensing objectives, so why should they



48 Sir Les Elton oral evidence Q88.2

49 Peter Coulson oral evidence 81.2



*have to go through the whole costly exercise? We need a straightforward process of notification to local authorities with mediation if needs be.” Peter Coulson, Editor, Licensing Review.*

- 99 We were given a shopping list of other concerns to address, specifically:
- simpler appeals
  - an end to inappropriate conditions on licences
  - electronic completion of forms
  - putting design of forms out to tender (so pubs no longer need to fill out 23 pages to move a window)
  - widow’s right - previously a bereaved spouse had two months to give necessary notice to keep a licence alive. Now it is three notices within seven days, including taking over as designated premises supervisor.

DCMS told us they are addressing most of these issues, with consultations either underway (on variations) or proposed for next year (widow’s right), or being piloted at present (electronic submission of forms).<sup>50</sup>

## 100 Recommendations

**We welcome the Government’s consultations that are underway but call on DCMS to expedite matters to ensure licensees reap the benefits of a simplified licensing process as soon as possible.**

**We also welcome the DCMS Select Committee’s decision to examine the bureaucracy surrounding licensing applications.**

- 101 **Appeals** Community pub licensees are less likely than large firms to challenge authorities over any conditions on their licences, given the potential costs. Appeals can only be made to the Magistrates’ courts, which create no precedent and can be lengthy (a day and a half) and costly (lowest cost is £2,500 and average is £15,000),<sup>51</sup> and so put people off appealing - licensees and residents alike. This needs to be tackled.

## 102 Recommendation

**We recommend that DCMS investigate an obligatory mediation process or tribunal approach for local authorities, akin to that adopted for the planning regime. This would be lower cost, more accessible and user friendly, or alternatively, that written appeals to Magistrates Court be heard in chambers - so avoiding lengthy time in court - and for precedent setting cases to be heard immediately in the High Court.**

- 103 **Licence conditions** At the outset of the inquiry, we received a large number of submissions pointing out that inappropriate conditions were being attached to licences, such as requirements for small rural pubs to install CCTV cameras or employ door staff. On investigation, we were told that some of this was down to ‘lazy lawmaking’, with authorities imposing blanket conditions on all pubs in the area, regardless of need, or simply attaching conditions that should not be there, such as specifying that licensees must be members of their local pubwatch scheme.<sup>52</sup> ALMR told us that this

50 Gerry Sutcliffe oral evidence Q 129

51 Nick Bish oral evidence Q 79.2

52 Oral evidence Q114

problem is then compounded by some local authorities gold-plating requirements, so where CCTV is installed, it has sometimes then been specified that it has to be maintained to police standards, meaning unjustified additional costs.

104 DCMS told us they are working with LACORS and with the police to ensure some consistency for the industry, with a seminar to address best practice.<sup>53</sup>

## 105 Recommendation

**We look forward to hearing that specific action is being taken to address concerns about inappropriate or blanket licence conditions being imposed on community pubs and to ensure that requirements are not being gold-plated.**

## The smoking ban

106 Our inquiry spanned the introduction of the smoking ban, giving us an insight into licensees' and trade associations' concerns prior to the ban, and allowing us to take evidence after it had come into effect.

107 Although the ban is accepted as a *fait accompli*, concerns remain about the clarity and timeliness of guidance, about some local authorities' failure to cope with the consequent licence variations and planning applications, and that enforcement has become another unreasonable bugbear.

108 Geof Collyer summarised the situation thus: "*The smoking ban has made pubs more attractive, affecting food sales and attracting families. But it has been cataclysmic in certain pubs, such as those unable to sort their food out.*"<sup>54</sup>

109 It has also been expensive. ALMR's evidence showed that the average pub invested £6,000 to prepare for the smoking ban.

110 A key impact has been around noise, with smoking shelters in beer gardens leading to complaints which never arose before. The Minister told us, "*I'm happy to listen to the industry about it. We've emphasised to enforcement officers that it should be common sense enforcement.*"<sup>55</sup> However, this message does not appear to have delivered results in all cases.

111 Circumstances for licensees have been further changed by amendments to the Noise Act 2006, which came into force on 28 February 2008 via a section of the Clean Neighbourhoods and Environment Act 2005, changing the powers Local Authorities have to control noise nuisance. Licensed Premises were brought under Section 4 of the Act, making it an offence to exceed the permitted level for noise, as measured from within the dwelling of a complainant. The fine upon summary conviction for this offence can be up to £5000. Alternatively, the local authority will be able to offer to the offender the option to discharge liability for the offence with the payment (within 14 days) of a fixed penalty of £500.



53 Gerry Sutcliffe oral evidence

54 Oral evidence Q 106

55 Oral evidence Q 129

112 This new legislation has made it increasingly easy for Local Authorities to prosecute when they deem a noise nuisance has been made. The use of outside areas is becoming increasingly problematical, particularly in London, where Westminster seem to be taking a very heavy-handed approach.

### 113 Recommendations

**Licensees have a responsibility to their neighbours, but the loss of amenity suffered by pub neighbours as a result of the smoking ban is a matter that needs to be addressed by a wider range of authorities. Fining a publican is not the answer in all cases.**

**Local Authorities should seek to help solve problems, especially where they have granted consent for the construction of shelters concerned, through advice on the siting or re-siting of smoking shelters, taking into account noise impact, and issue advice to 'lock the door' (subject to fire risk assessment) if there is no smoking shelter.**

**The Department of Health should review its guidance on smoking shelters to improve noise reduction, for example by permitting greater enclosure.**

### Health and Safety and HACCPs

“ People are being finicky about the most ludicrous rules and we've had to update our 60-page health and safety book to 76 pages. For example the asbestos regulations mean that an electrician has to see our asbestos report before he can do a minor part test on a microwave. ”

*David Sissons, Doncaster LVA*

114 The mounds of evidence we received from licensees illustrate the frustrations felt by many about the seemingly disproportionately rigorous application of health and safety requirements relative to the practical risks posed by their businesses. And at a more generic level, we heard concern from BBPA that guidance that had started out as well-intentioned industry good practice had later been adopted as a required standard, with all the concomitant bureaucratic burden.

115 HACCPs is a requirement of EU food hygiene legislation that applies to all food business operators except farmers and growers. For a small community pub however, it has to be asked how proportionate the record-keeping requirements are in an area which was already highly regulated. Licensees are not only required to maintain high standards of knowledge through training, and of practice in their food preparation, but also to record every last detail of doing so, surely inappropriate in the absence of a clear risk of not doing so.

“ Following the new HACCPs regulations, our local pubwatch scheme has had to send over 60 bar staff on a food hygiene course since January because ice and beer are now classified as foods under the regulations. ”

*Janet Dooner, The Railway Tavern*

- 116 The inquiry understands that the record keeping requirements of the system were intended to replace an inspection-based system. However, some local authorities are also now introducing 'Scores on the Doors' schemes, awarding and publishing ratings following food hygiene inspections. London Local Authorities are proposing to introduce a mandatory scheme through the 10th London Local Authorities Bill currently going through Parliament.

#### 117 Recommendation

**While large firms may need to maintain detailed food hygiene records, the Panel doubts whether they deliver risk-justified benefits in community pubs, imposing as they do an unwelcome distraction from routine supervision and management of the businesses.**

**The Panel asks the FSA to review whether the present regime is proportionate and appropriate and if not, to repeal those obligations which are not fully justified.**

### Fire Safety

- 118 The new FRRO assigns responsibility to employers to assess fire risks themselves and complete any identified remedial works without guidance or instruction from the fire department. The inquiry understands that this has caused problems in some areas where breaches are identified by a fire officer but get muddled in legal interpretation, with the industry left confused and frustrated by fire officers with different agendas.
- 119 It was suggested to the Panel that given the new regime, there is every argument that fire safety should be removed from the licensing regime with fire officers relieved of the necessity to review licence applications and variations. However, the rationale for the re-assignment of responsibility for such an important area of public safety from qualified fire officers to completely unqualified licensees demands justification. It appears to the Panel to be a wholly retrograde step which should be reversed.

#### 120 Recommendation

**DCLG and DCMS should consider removing fire officers' role in licence applications and variations and the restoration of their former responsibility for the issue of fire certificates.**

## Lessons for future regulation

- 121 The clear message from individual licensees and trade bodies is that regulations must be better tailored to the nature of the community pub trade, with a proper assessment of risks rather than a 'one size fits all' approach. It was suggested to us<sup>56</sup> that regulators should be obliged to spend time in the trade to see how their proposals will work in practice before legislating. We endorse this suggestion and recommend that the industry trade bodies take an active part in the process, liaising



with the regulating department to ensure that relevant officials work through regulatory proposals with licensees, on the job, as an integral part of their policy preparation and consultation process.

- 122 A particular concern arising from our inquiry is the timeliness of regulations and guidance. We heard from Sir Les Elton on licensing that changes made at the last minute meant authorities struggled to understand what they were required to implement.
- 123 Lessons were not learnt from this episode, with the introduction of the smoking ban similarly left to last minute guidance. As Sir Les told us, these last-minute changes have a disproportionate impact on costs for local authorities, as they have to staff-up in preparation for the changes, but without detail of the legislation until the last minute. Of course, they also impose unnecessary costs on licensees who are attempting to be ahead of the game.
- 124 These errors must not be repeated in future legislation, and as part of the consultative exercise recommended above, timescales must be realistic from the outset, taking into account both enforcement and industry concerns. Legislation is very seldom so urgent that thorough preparatory work should be curtailed.

## 125 Recommendations

**We endorse calls by witnesses to the inquiry for the routine inclusion in existing and in future regulation of sunset clauses - the obligation to display signage under the smoking ban is a case in point.**

**We propose that DCMS draw up a list of those obligations which could safely be removed from the small businesses that form the greater part of the sector, on a de minimis basis.**

**The deregulation initiative must be made more relevant to community pubs and not just focus on large businesses. We urge DCMS to produce an annual report specifying the burdens lifted from the community pub sector.**

**Future regulation must be tested out in the trade before becoming law. We urge industry bodies to take an active part in the process, through liaison with regulating departments to ensure that relevant officials work through any new regulatory proposals with licensees, on the job, as an integral part of routine preparation and consultation.**



## 6 SURVIVAL PLAN

- 126 Alongside recommendations outlined above for a more sympathetic regulatory framework, and for more profitable AWP, we recommend that serious consideration be given to the following specific measures to help ensure community pubs' future viability and recognise their community contribution.

### Rate relief

- 127 Small business rate relief is available for pubs with a rateable value under £10,000. In practice, this helps few community pubs, as they have to be operating at extremely marginal levels to qualify. One licensee (David Sissons) told us it took a lengthy process of form filling to obtain a £3 discount off a £550 rates bill.
- 128 Some pubs are also eligible for rural rate relief. If they are in a rural settlement of less than 3,000, have a rateable value under £10,500, and are the only pub in the community, they qualify for mandatory relief at 50%. Local authorities can give discretionary relief beyond this, up to 100%, and for rateable values up to £14,000.
- 129 The verdict from our inquiry is that this is good, as far as it goes, but that it does not go nearly far enough. First, it appears to be poorly publicised and not monitored for effect. *"Information on the take-up of the rural rate relief for public houses and the number of eligible public houses is not available centrally"* (Phil Woolas MP, WPQ 27/11/06); Shepherd Neame told us that 15% of their estate would qualify, but only half of those eligible take advantage of it.
- 130 Secondly, suburban communities are excluded, *"but it is these pubs, in back streets and without gardens and space, that are generally least able to adapt... they have an important role to play, like rural pubs, in their communities."*<sup>57</sup>

**Mrs Janet Dean:** To ask the Secretary of State for Communities and Local Government, whether she has any plans to (a) increase mandatory rate relief for rural public houses above 50 per cent. And (b) extend rate relief to urban community public houses.

**Mr. Woolas:** There are no plans to increase mandatory rate relief above 50 per cent or to extend rate relief to public houses beyond qualifying rural settlements.  
[Hansard 27 Nov 2006 col: 338W]

- 131 Third, there are anomalies with the single pub rule. If a community has two pubs, neither qualifies for relief, meaning that a community pub in need of support will be excluded if there is another pub in the vicinity, even if it is serving an entirely different market - as, for example, with a busy food house.



- 132 Fourth, it is up to the local authority to decide what the relevant community is. We were told of one hamlet with a single pub, which would otherwise qualify for relief, but where the council defined the community as being the whole parish - which brought another pub in even though it was some distance away.<sup>58</sup>
- 133 A number of witnesses suggested that pubs should be rewarded by a reduction in rates for the extra time and investment committed to providing extra services to their communities, often with no direct return. We ask DCLG to consider this as a matter of priority. Urban as much as rural community pubs need recognition of their contribution, and the simplest way to deliver this seems to be from those closest to them, and best able to assess their worth.
- 134 Some local authorities are already doing this in part, paying pubs for opening their toilets to public use, for example. We urge DCLG to enable local authorities to take this a step further, by rewarding community pubs for a wider range of services they may provide through a discount on rates and to rateable values, rather than through a whole new funding system. Where the provision of such services is vital to a community it is entirely reasonable that it should be rewarded, both to aid the pub's survival and to encourage others.
- 135 A relatively simple checklist should be compiled in conjunction with the industry and other relevant bodies, which would be applicable to urban pubs as well as rural ones, and include both facilities and community activity. For example:
- **Community Activity:** social groups, sports groups, political groups, business groups or any other groups holding meetings at the pub, including MPs surgeries.
  - **Other community support:** such as displaying local notices and organising charitable or community events.
  - **Facilities:** including toilet facilities for public use; car parking for school pick-ups/drop offs, local shopping other non-pub use; providing bottle banks and other recycling facilities for public use; use as hubs for prescription or dry cleaning drop-offs and collections; local library; IT hub.
- 136 Given the community pub's vital contribution to social cohesion, discussed above, it was disappointing that the Minister then carrying specific responsibility for social cohesion was unable to meet the Panel to discuss these issues. The Panel therefore urges the Department to refresh its view of this issue and to recognise and to promote the importance of community pubs to local life in Britain.

## 137 Recommendations

**This is an area ripe for review.**

**We ask DCLG to explore a simple way of enabling and encouraging local authorities to assess and reward the contribution made by each pub in assessing its business rate liability. This should then be applicable to urban, suburban and rural communities alike, and be regardless of the number of pubs in the community. The new regime should then be vigorously promoted to ensure that every community is aware of the support which is available.**



**In the meantime, existing rural rate relief must be more vigorously and effectively promoted and take-up monitored, and rate relief rules should be amended to extend the scheme to urban and suburban applicants and the one-pub rule qualified. The definition of a settlement should be based on a reasonable distance to walk from home to pub.**

- 138 A possible route is offered by the regulations allowing for both mandatory and discretionary rate relief for charities, which also applies to other rate payers where part of a property is used by other clubs, societies etc which are not conducted for profit. This principle could apply to a pub's function room, where it is used regularly for community purposes, or a car park used for recycling facilities. We understand this would be a relatively simple change to make, requiring amended guidance notes providing a mandatory formula for local authorities to reflect community uses.

## Planning

- 66 The planning system needs to recognise that if pubs do come under threat, arbitrary closure should not be agreed without due process. Once closed, a pub is effectively lost for good, and the heart and soul of the community are destroyed. The social issues should be thoroughly examined before consent is granted. 99

*John Longden, Pub is the Hub*

- 139 The inquiry heard of systemic failures in the planning system, relating to pubs in new developments, pubs seeking to diversify, pubs seeking partial change of use, and pub closures. These were not all unique to community pubs, with some concerns echoing those raised by other business organisations about the time and costs wasted by the present sclerotic system. But to put it in context, we were told of one case where it took ten years from a company first seeing a site to opening the new pub's doors and another where initial contact was made with the planning department in 2001 and construction only started last year, after 48 drafts of a Section 106 Agreement.<sup>59</sup>
- 140 The Government's ongoing review of planning policy intends to address these broader problems of accessibility and delays. We remain concerned, however, that micro issues specifically relating to pubs and their community value have yet to receive the attention they merit.
- 141 Pubs are acknowledged in DCLG's Good Practice guide on Planning for Tourism, and National Planning Policy Statement 7 imposes a duty on local authorities to adopt local development policies supporting the retention of community facilities such as pubs (see box below). The most recent statistics available from CAMRA show that by 2003, 60% of local authorities had policies in place. Yet evidence heard during the inquiry found this is not a safeguard, particularly for encouraging pubs' viability through necessary support for diversification plans. In addition, PPS 6 does not provide the same protection for urban community pubs.



- 142 At present, there is no fail-safe mechanism for ensuring community pubs are fully appraised by local planners for their community value and their tourism potential; the planning process needs to be made more sympathetic to securing their viability, and to the full exploitation of the resource they represent.

#### **National Planning Policy Statement 7**

Planning authorities should adopt a positive approach to planning proposals designed to improve the viability, accessibility or community value of existing services and facilities, e.g. village shops and post offices, rural petrol stations, village and church halls and rural public houses, that play an important role in sustaining village communities. Planning authorities should support the retention of these local facilities and should set out in LDDs the criteria they will apply in considering planning applications that will result in the loss of important village services (e.g. as a result of conversion to residential use).

- 143 We raised the matter with DCLG, who responded *"It would not be appropriate for Government to produce new guidance on assessing community contribution at this time. As we explained in the Planning White Paper, **Planning for a Sustainable Future**, there is a strong and widely held view amongst users of the planning system that there is currently too much planning guidance, and too little flexibility on process and matters which could be better left to local discretion."*<sup>60</sup>
- 144 We disagree and urge DCMS and DCLG to work together to consider more definitive guidance for local authorities on community pubs, assessing their community contribution for rate relief, and the wider social issues involved and routes to secure their survival.
- 145 **Recommendation**

**We urge DCMS and DCLG to work together to consider more definitive guidance for local authorities on community pubs, assessing their community contribution for rate relief, the wider social issues involved and routes to secure their survival.**

## Closures

- 146 The Government does not hold information centrally on pub closures,<sup>61</sup> nor on the impact of pub closures. BBPA evidence, taken from ratings data, shows 2,500 have closed over the last two years. Some of these closures will be due to overprovision: Geof Collyer pointed out that *"Many of the smaller community pubs are in the industrial heartlands, economically poor areas, which have seen big population shifts away."*<sup>62</sup> Closure of some failing pubs may benefit surviving ones and the surrounding community. However, this certainly is not true of all cases.

60 DCLG letter 9/4/08.

61 Hansard WPQ 31/1/06

62 Geof Collyer oral evidence Q110

**Bob Spink:** To ask the Secretary of State for Communities and Local Government what research she has commissioned on the impact of pub closures on local communities; and if she will make a statement.

**Mr. Woolas:** I have not commissioned any specific research on the impact of pub closures on local communities. (Hansard WPQ 2 May 2007)

147 We were told that most listed companies "went through some aggressive estate-pruning to get rid of those pubs that would suffer from the smoking ban, selling them on to private firms. Some were then sold off to realise cash."<sup>63</sup>

148 The real estate value of pubs can be 50% greater as a private dwelling, meaning the lure of applying for change of use is considerable. Temptation is not only for developers to acquire, but for freeholders to sell and realise a 'pension pot'. The concern for the ongoing community, however, is that once a pub closes, it often takes with it a range of services that can't, or won't, be replicated by others.

149 CAMRA's Public House Viability Test is intended as a tool to assist planners in assessing whether a pub is genuinely unviable. We urge the Government to add its weight to this test, endorsing it as good practice guidance for local authorities in examining applications for change of use. In particular, local authorities should be obliged to assess the loss of services over and above food and drink as part of planning considerations.

#### 150 Recommendation

**We urge the Government to add its weight to CAMRA's Public House Viability test, endorsing it as good practice guidance for local authorities in examining applications for change of use. In particular, local authorities should be obliged to assess the loss of services over and above food and drink as part of their planning considerations.**

## Closing loopholes

151 PiTh provided evidence of problems with certificates of lawfulness, whereby if it can be proved that a pub has been used as a private house for four years, the local planning authority can grant these certificates without reference to any local planning policies or other considerations.



152 A second loophole, identified by CAMRA, allows developers to circumvent local development frameworks for retaining community facilities by first demolishing pubs (for which no planning consent is needed) and then applying for a new use, when previous use may not be taken into account. And according to CAMRA, at least 13 pubs a month are demolished. The loophole comes from The Town and Country Planning (Demolition - Description of Buildings) Direction 1995, as this excludes from the definition of development "every building other than a dwelling house or a building adjoining a dwelling house," meaning no planning permission is needed to demolish a public house unless it is attached to a dwelling house. The developer then starts with a clean slate.

153 In both cases, local authority plans supporting retention of community facilities prove no safeguard.

#### 154 Recommendation

**DCLG must review planning loopholes to ensure pubs are not being lost without due process.**

### Diversification and change of use

155 Community pubs' viability often depends on swift approval of plans to upgrade kitchens, extend dining areas, improve toilets, add bed and breakfast accommodation, alter external smoking areas or enlarge car parks.

156 Many community pubs occupy large buildings, including areas not required for trade but which need to be maintained and on which rates need to be paid. For them, partial change of use may provide an answer - selling off some surplus space to fund investment in new kitchen facilities, for example. Again, the process can be all too time consuming "frequently measured in years rather than months" and one which "proves very expensive as professional advice is essential. Local councils are seemingly unaware that community pub owners and licensees have the luxury of neither time nor money."<sup>64</sup>

157 Time is of the essence for the pub, but not, apparently, for planning authorities. We heard one example of a food pub which had just 8 car parking spaces and plenty of room for a new car park: it took 4 years to get permission, even though the local parish council was in favour.<sup>65</sup> We heard of another, given permission to develop its kitchen and restaurant, but denied the car park needed to attract custom (Pith).

158 As one witness said: "local authorities need to act faster, or the pub closes"<sup>66</sup> but as another pointed out: "Because of the negative media given to most pubs, any change will tend to attract objections."<sup>67</sup> As with pub closures, it has become evident during the course of our inquiry that planners are not always quick enough, or maybe alert enough, to assess the beneficial impact of the pubs' continuing viability on the local community. Similarly, they do not necessarily recognise the impact on future community investment, reflecting instead on past activity. With a run-down pub, for example, it is vital to consider how it could contribute in the future.

64 Hall & Woodhouse written evidence.

67 Jonathan Neame oral evidence Q 60.2

65 Shepherd Neame evidence

66 Anthony Wallis oral evidence Q 36.2

- 159 Again, clearer direction is needed on assessing the community benefit added, or maintained, by planning proposals. A start has been made in the Good Practice guide on Planning for Tourism, which states: *"moderate-sized extensions to an existing hotel or public house, including the addition of bedroom accommodation, can help to ensure the future viability of such businesses. This may satisfy a local need as well as a tourism one, by fully utilising the potential of the site but without any disproportionate increase in scale."*
- 160 This must now be developed into fuller guidance to local authorities on assessing pubs' community contribution and future community investment, as recommended in paragraph 137 above.
- 161 DCMS told us that whilst not being in the business of saving pubs, Government is eager to help spread best practice among community pubs. We consider a more proactive stance is needed, and in section 7, recommend a course of government action designed to help pubs prosper. Existing advice is hard to come by, as Pauline Smith told the inquiry: *"There's no leaflet you can pick up. Pub is the Hub was a fantastic source of information, but I would have had difficulties if I hadn't found them."* (see paragraph 19 above). Pub is the Hub is a ready-made vehicle for achieving the Government's stated objective of spreading best practice, although it is currently limited to rural projects. Furthermore, given its voluntary nature and present shortage of funds, it is unable to meet the already rapidly growing demand for its services.
- 162 We endorse the call of one of our witnesses: *"There's a failure to recognise fantastic initiatives such as Pub is the Hub, which although it's a terrific project, looks more like a charitable initiative, run on a charitable shoe-string, whereas it is now a very well constructed organisation running across the country. It's not being given the credibility it deserves and Government should do this."*<sup>68</sup>

### 163 Recommendation

**DCMS should provide annual funding support for Pub is the Hub, both to enable it to expand its volunteer network to meet the increased demand and to equip it to make small, seed-corn grant support available to nurture worthwhile projects quickly, informally and effectively, perhaps on a matched funding basis. Pub is the Hub presently operates only in rural areas and it would be of great benefit if it could be persuaded to expand its work into urban and suburban communities.**

### Use class orders

- 164 Prior to April 2005, pubs and restaurants were all classified for planning as A3 use. New use class orders have split this category, drawing a distinction between traditional beer houses and pubs serving food, with pubs, wine bars and other drinking establishments classified as A4, while restaurants remain A3.



- 165 We were told that this could cause problems down the line for pubs, potentially reducing their viability and future value. While pubs don't need planning permission if changing from a pub, A4, to a restaurant, A3, they will if they want to change from being a restaurant to a pub, even if they were a pub before. So a community pub, investing in better food, may find that when it comes to applying for planning permission, it has been reclassified as a restaurant. This could have consequential impact on its sale value.<sup>69</sup>
- 166 It is unclear what value this additional rigidity in the system provides. The distinction between pubs, bars, wine bars, gastropubs, restaurants and so forth is very blurred and not obviously useful.
- 167 BiSL voiced concern that the new Use Class orders were being used by local government for other purposes which could also impact community pubs. For example, with ADZs, using the two use class orders to narrow the definition of identify a particular use and limit the number of affected drinking establishments. They added that local authorities now have such powers under both planning and licensing legislation to exert effective control over the nature of the use of premises and to stop any unwelcome activity that the A3/A4 planning distinction has outlived any usefulness it may have had.

#### 168 Recommendation

**We ask DCLG to merge use classes A3 and A4.**

### Business skills and training

- 169 Witnesses identified lack of access to funded skills training as a major barrier to business viability in the licensed trade.
- 170 The pub industry generally has a weak training culture, made worse because most operators are either sole traders or micro-businesses, unable or unwilling to spend much time away from the business themselves in developing their skills, or to spare (and fund) their staff to do the same. Licensees need a basic licensing qualification to enter the trade, but thereon there's no requirement for any formal training.
- 171 We heard from several sources that surviving the first six months' trading is crucial for new licensees, that they need training to help them do so, and that this training needs to be as close to the job as possible. BII, the main industry awarding body, told us that they had responded to industry demand by developing short, focused courses, with units broken down into single days, with proven benefits to bottom line performance.
- 172 However, licensees have to cover the full cost of these courses themselves, at £150-300 a day. LSC funding is presently only available for significantly longer level-2 courses, which involve 350 hours of training in a block - clearly impractical for licensees running their own business.

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<sup>69</sup> Brigid Simmons oral evidence Q 27.4



- 173 The net result is that marginal operators are unable to afford the training they so desperately need, and the sector is disadvantaged compared with others. As Bill said *'The licensed retail sector has been largely disenfranchised from the skills agenda.'*<sup>70</sup>
- 174 We were told that attempts by the Bill to resolve the issue have been unsuccessful. Rather than examine their funding model to see how it could be made to suit the industry demand, it was recommended by LSC that the industry repackage its training to suit the funding.
- 175 We understand that an associated problem is that few colleges of further education are interested in schemes that are not eligible for full funding, meaning that most training is carried out by independent trainers. This limits the availability of stable provision for the industry, and although there is demand for business skills training in all areas of the country, it is not always possible to match that with a supplier.
- 176 We raised the matter with DIUS<sup>71</sup> who were then awaiting the review from People 1st, the Sector Skills Council for the hospitality sector, which was intended *'to ensure that the qualifications that attract maximum public subsidies help to meet the needs of employers as well as the demands of the wider and future economy...'*<sup>72</sup>. It has since transpired that the resultant sector qualification strategy has failed to address the needs of community pubs. People 1st's recommendations were broadly applicable to the managed houses that constitute 10% of the sector, but failed to address the training needs of, and business pressures on, the remaining 90% of the trade made up of small businesses and sole traders in the community pub sector. For the time being, the options for a licensee seeking to acquire new business skills are extremely limited: pay for temporary bar cover for three or so days, or fudge through.

## 177 Recommendation

**People 1st and DIUS have to do a better job of understanding that community pubs are small businesses, that as small businesses they have different training needs to larger managed houses, and that they need to be able to access funded training in bite-size pieces, and preferably on the job.**

**We call upon the Sector Skills Council, People 1st, to address this unacceptable deficit forthwith and recommend that its regulating body, UK Commission for Employment and Skills, ensures that it takes such action.**

## Right to buy

- 178 CAMRA pointed out that the success of an individual pub generally depends on the person who runs it, but that community pubs are often sold in groups by pubcos, meaning their tenant or lessee isn't given the opportunity to purchase the pub themselves.



<sup>70</sup> Cathie Smith Bill supplementary evidence (see appendix IV)

<sup>72</sup> *ibid*

<sup>71</sup> Correspondence with ministers (see appendix III)

## 179 Recommendation

**When a pub is to be sold, the existing tenant or lessee of that pub should be given the first option of buying it, at open market valuation.**

## Grants and advice

- 180 Access to finance can prove a stumbling block for community pubs looking to develop and improve their businesses. Grants may be available, but as the experience recounted by Pauline Smith of the Master Robert Inn (see case study in paragraph 19) shows, it takes considerable perseverance and ingenuity to find out how to access available grants, even with the help of a sympathetic parish council and PiTH.
- 181 Pub is the Hub's director, John Longden, told us *"It's becoming harder and harder for many pubs to survive as they are, without diversifying. Often a fast grant of £5,000 to £20,000 can make all the difference."*<sup>73</sup> In the main, grants are for 50% match funding, but *"the problem is it involves form filling and committee ... In an ideal world we would have certain funds available to go and make things happen quickly."*<sup>74</sup>

## 182 Recommendation

**DCLG should examine how access to grants can be improved, and encourage all RDAs and councils, rural and urban, to adopt best practice in assessing the community impact of diversification projects. As a starting point, DCLG should work with DCMS (as recommended elsewhere in this report) to construct definitive guidance for local authorities on community pubs, the wider social issues involved in their services, and routes to secure their survival. In this, there is a ready made pool of experience within PiTH, and we urge DCMS to provide them with annual funding support.**

## Small firms loans guarantee scheme

- 183 In the pre-Beer Orders days, pubs could generally rely on the brewer to whom they were 'tied' to provide the loans necessary to finance improvements. With the exception of a minority of regional brewers, this relationship no longer exists; today, 80% of pubs are small businesses, run by a freeholder or tenant/lessee; and in the case of the latter, their relationship with their pubco is one of paying market rent, but running the premises independently.
- 184 BII told us that many licensees inject their own savings into the business; others apply for loans. The Government's small firms loan Guarantee scheme helps many small businesses in this process, but it specifically excludes all public houses *"where a brewery or drinks supplier owns or leases the premises, gives financial support, has any control or offers any incentive to the applicant to stock their product."* So it excludes at a stroke all the 30,000 small businesses where the property is owned by and tied to a pubco, regardless of whether that pubco provides any facility for 'soft loans'.

<sup>73</sup> John Longden oral evidence Q 26.2

<sup>74</sup> Ibid Q 23.2

185 The Panel raised this matter with the then DTI (now Department for Business, Enterprise and Regulatory Reform), explaining that licensees' relationships with their landlords have changed fundamentally since the rules were framed, and are now very similar to that of any other business tenant of commercial premises, including carrying full repairing and insuring responsibilities. Indeed, if anything, the relationship could be said to be distinctive only negatively, in that almost all such landlords retain varying degrees of tie of their tenants for some elements of the stock-in-trade, thereby extracting from their tenants some additional margin over and above the property rent charged.

## 186 Recommendation

**We understand that the SFLG scheme is to be reviewed, and urge BERR to remove the blanket exclusion for all 'tied' pubs. If a distinction needs to be kept between small businesses with access to some form of 'soft loan', the exclusion should state this, rather than exclude a number of needy pubs indiscriminately.**

## Flat Rate VAT accounting

187 Pubs with an annual turnover under £150,000 (excluding VAT, or £187,500 including VAT) are eligible for the VAT flat rate scheme. This is intended as a simplification measure, allowing them to avoid working out and accounting for VAT on each sale and purchase and replacing their net VAT liability with a percentage of their VAT-inclusive turnover. For pubs this is 5.5%, whereas for restaurants it is 12%.

188 Pubs operating at this level of turnover are extremely marginal, and many now have to introduce food, or increase their reliance on it, to survive. Pubs serving food apply the rate of 5.5% to all their takings as long as food accounts for less than 50% of their total turnover. The rate moves to 12% on all takings once the majority of turnover is derived from selling food. The higher rate accounts for the fact that food bought is zero-rated.

189 Under European law the scheme is required to be revenue neutral overall. The flat rates are calculated as an average for each sector and the Panel was told by the Treasury that it deliberately keeps the threshold low to ensure any distortion between 'winners' and 'losers' is minimised. However, as was pointed out to the Panel by Tony Payne, Chief Executive of the Federation of Licensed Victuallers Associations, the step change from 5.5% to 12% means that at the margins there are significant distortions. And in particular, there are in effect financial penalties imposed on pubs for diversifying from wet-led sales to food as their food business edges over half their turnover, a clear disincentive to further development.

190 The Panel is concerned that traditional wet-led pubs may be deterred by this steep transition in VAT liability from expanding their non-wet business. It's also true that the present system favours pubs increasingly as their food sales approach 50%, just as it greatly disfavors those who just exceed it. Both awareness and take-up are also very low at present.



191 A smoother, graduated transition from the lower flat rate VAT to the higher could help minimise this disincentive to diversify and would clearly be fairer. In evidence to the Panel, John Healey, then Financial Secretary to the Treasury, confirmed there was no legal obstacle to applying a graduated rate for pubs serving food, but that it must remain revenue neutral overall.<sup>75</sup>

## 192 Recommendation

**The present flat rate VAT scheme for pubs should be replaced with a graduated scheme, perhaps stepped for each 5% or 10% shift from drink to food sales, and the scheme should be boldly promoted by HMRC and take-up monitored.**

## Hotel capital allowances scheme

193 In another curious exclusion, we were told that pubs looking to diversify into B&B were excluded from the hotel capital allowances scheme open to larger hotels, as there was a qualifying threshold of 10 rooms.<sup>76</sup> We raised this matter with the then Treasury Minister, John Healey, who agreed it appeared anomalous. Rather than extend it to B&Bs, the answer appears to have been given in the subsequent Budget, which phased out the allowance altogether over five years.

## The Tie

194 This inquiry began its investigations in January 2006, shortly after the Trade and Industry Select Committee had completed its inquiry into pubcompanies and the tie. Rather than tread over the same ground, the panel decided to focus its attention initially on the regulatory relationship between government and community pubs. By the latter stages of our inquiry, interest in the tie had rekindled and issues concerning pubcos' support for community pubs were raised at our eighth hearing (see questions 106-123 in Appendix II). We are thus pleased to note that the Business and Enterprise Select Committee, the successor to TISC, will be revisiting its original inquiry into the Tie this autumn and look forward to its recommendations with interest.

<sup>75</sup> John Healey supplementary evidence (see appendix IV)

<sup>76</sup> Anthony Wallis oral evidence Q 38.2

## 7 THE WAY FORWARD

66 In short, it is in this country's interest to have a strong vibrant community pub market: it is good for employment; good for the Exchequer; good for the local community; good for the local economy and good for tourism. 99

*Jonathan Neame, Shepherd Neame*

- 195 In the course of this inquiry it has become evident that there is no single measure that will secure the future of community pubs. DCMS told us that Government isn't in the business of keeping pubs open<sup>77</sup>, but as this report identifies, there are many, many areas of Government activity where some relatively small changes could go a long way to improving marginal pubs' viability, helping ensure that urban and rural communities across the country better support and cherish a pivotal element of their neighbourhoods.
- 196 Primarily, the sector is crying out for better sponsorship from DCMS. Community pubs need a vocal and persistent champion across Government, recognising that this industry of small businesses is, at the margin, generating twice as much revenue for the Government as it is for its licensees, as well as serving its communities in so many ways that are little recognised and seldom directly rewarded.
- 197 Furthermore, the vast majority of this trade suffers from a recent regulatory backlash aimed at solving problems not of their making. Their contributions need to be recognised, and their interests protected against any further regulatory advances by the Home Office, the Department of Health, Defra and DCLG.
- 198 The message has come through loud and clear to this Panel: Stop regulating and start promoting. And better still, reverse existing regulations where the public benefit delivered fails to justify the burdens imposed on the country's community pubs.

### Recommendations

- 1 Duty** We urge the Treasury to initiate a review of options for addressing the distortive effects of the present approach to the taxation of alcohol. The proposed duty escalator must be halted until the Treasury has had time to review the wider social impacts of beer duty in driving drinking out of the controlled atmosphere of pubs, and in forcing the pace of closure of a further tranche of community pubs. In particular, the Treasury should review:
  - the significant differential between on and off prices in the UK before imposing any further increases on the pub trade
  - this Inquiry's recommendation for a reduced rate of duty and/or VAT on sales of draught beer, to reverse the trend away from drinking in public places or getting 'tanked-up' at home before a night out, and back into the regulated environment of a pub
  - minimum pricing as a longer term solution. (Paragraph 62)
- 2 AWP** We welcome the Government's review of AWP stakes and prizes and support an uplift sufficient to ensure community pubs machines become competitive.

An additional boost should be given to community pubs by abolishing machine gaming duty for at least the first machine in each pub. (Paragraph 66)

- 3 Sky** Sky should support community pubs by recognising that these pubs' low profitability but high rateable values impacts the affordability of Sky, and should vary their prices accordingly. (Paragraph 70)





- 4 **Rates** The five-year rating cycle clearly causes problems for pubs as their trading may vary significantly in this period.

The rating appeals process needs to be made more accessible to pubs.

Improved guidance needs to be given to valuation officers about pubs' diversification initiatives.

Rate relief must be reviewed to ensure it better reflects community contribution. **(Paragraph 78)**

- 5 **Better regulation** All government guidance should be brief and to the point. It should be for departments to achieve brevity, not for others to have to translate their communications.

We urge DCMS to place particular emphasis on making sure regulatory simplifications deal with minor matters as much as major ones, and that savings made from a few 'big ticket items' do not distract attention away from the many smaller issues burdening pubs. **(Paragraph 85)**

We endorse calls by witnesses to the inquiry for the routine inclusion in existing and in future regulation of sunset clauses - the obligation to display signage under the smoking ban is a case in point.

We propose that DCMS draw up a list of those obligations which could safely be removed from the small businesses that form the greater part of the sector, on a de minimis basis.

The deregulation initiative must be made more relevant to community pubs and not just focus on large businesses. We urge DCMS to produce an annual report specifying the burdens lifted from the community pub sector.

Future regulation must be tested out in the trade before becoming law. We urge industry bodies to take an active part in the process, through liaison with regulating departments to ensure that relevant officials work through any new regulatory proposals with licensees, on the job, as an integral part of routine preparation and consultation. **(Paragraph 125)**

- 6 **Licensing** We call upon DCMS to ask LACORS to draw up, adopt and promote a code of best practice in the application of licensing law to public houses with a view to improving consistency and lightness of touch in this area.

We would like to see a 'green' card included in the 'yellow card/red card' range of approaches advocated, with 'enforcement' viewed as a last resort to be used only after encouragement, training and guidance have failed.

Recognising that enforcement has too often displaced encouragement, we also recommend that reductions in rates should be introduced for those pubs making specific social contributions. **(Paragraph 92)**

- 7 **Penalties** Pubs should not be closed before an appeal is heard, where lodged, and DCMS should draw up and publish guidance on the appropriate length of closure orders in relation to varying offences and circumstances so as to ensure that the tariff is fair relative to other penalties.

The tariff of 'relevant offences' for personal licence holders should also be reviewed to ensure penalties are proportionate to offences, with consideration given to alternative forms of training or guidance for first offenders in specific circumstances, in a similar spirit to 'speed awareness' courses for first time motoring speed offenders. **(Paragraph 95)**



- 8 **Licensing simplifications** We welcome the Government's consultations that are underway but call on DCMS to expedite matters to ensure licensees reap the benefits of a simplified licensing process as soon as possible.

We also welcome the DCMS Select Committee's decision to examine the bureaucracy surrounding licensing applications. (Paragraph 100)

- 9 **Licensing appeals** We recommend that DCMS investigate an obligatory mediation process or tribunal approach for local authorities, akin to that adopted for the planning regime. This would be lower cost, more accessible and user friendly, or alternatively, that written appeals to Magistrates Court be heard in chambers - so avoiding lengthy time in court - and for precedent setting cases to be heard immediately in the High Court. (Paragraph 102)

- 10 **Licensing conditions** We look forward to hearing that specific action is being taken to address concerns about inappropriate or blanket licence conditions being imposed on community pubs and to ensure that requirements are not being gold-plated. (Paragraph 105)

- 11 **Smoking ban** Licensees have a responsibility to their neighbours, but the loss of amenity suffered by pub neighbours as a result of the smoking ban is a matter that needs to be addressed by a wider range of authorities. Fining a publican is not the answer in all cases.

Local Authorities should seek to help solve problems, especially where they have granted consent for the construction of shelters concerned, through advice on the siting or re-siting of smoking shelters, taking into account noise impact, and issue advice to 'lock the door' (subject to fire risk assessment) if there is no smoking shelter.

The Department of Health should review its guidance on smoking shelters to improve noise reduction, for example by permitting greater enclosure. (Paragraph 113)

- 12 **Food safety** While large firms may need to maintain detailed food hygiene records, the Panel doubts whether they deliver risk-justified benefits in community pubs, imposing as they do an unwelcome distraction from routine supervision and management of the businesses. It asks the FSA to review whether the present regime is proportionate and appropriate and if not, to repeal those obligations which are not fully justified. (Paragraph 117)

- 13 **Fire Safety** DCLG and DCMS should consider removing fire officers' role in licence applications and variations and the restoration of their former responsibility for the issue of fire certificates. (Paragraph 120)

- 14 **Rate relief** We ask DCLG to explore a simple way of enabling and encouraging local authorities to assess and reward the contribution made by each pub in assessing its business rate liability. This should then be applicable to urban, suburban and rural communities alike, and be regardless of the number of pubs in the community. The new regime should then be vigorously promoted to ensure that every community is aware of the support which is available.

In the meantime, existing rural rate relief must be more vigorously and effectively promoted and take-up monitored, and rate relief rules should be amended to extend the scheme to urban and suburban applicants and the one-pub rule qualified. The definition of a settlement should be based on a reasonable distance to walk from home to pub. (Paragraph 137)



- 15 Planning** We urge DCMS and DCLG to work together to consider more definitive guidance for local authorities on community pubs, assessing their community contribution for rate relief, and the wider social issues involved and routes to secure their survival. **(Paragraph 145)**

We urge the Government to add its weight to CAMRA's Public House Viability test, endorsing it as good practice guidance for local authorities in examining applications for change of use. In particular, local authorities should be obliged to assess the loss of services over and above food and drink as part of their planning considerations. **(Paragraph 150)**

DCLG must review planning loopholes to ensure pubs are not being lost without due process. **(Paragraph 154).**

We ask DCLG to merge use classes A3 and A4. **(Paragraph 168)**

- 16 Diversification support** DCMS should provide annual funding support for Pub is the Hub, both to enable it to expand its volunteer network to meet the increased demand and to equip it to make small, seed-corn grant support available to nurture worthwhile projects quickly, informally and effectively, perhaps on a matched funding basis. Pub is the Hub presently operates only in rural areas and it would be of great benefit if it could be persuaded to expand its work into urban and suburban communities. **(Paragraph 163).**

When a pub is to be sold, the existing tenant or lessee of that pub should be given the first option of buying it, at open market valuation. **(Paragraph 179)**

DCLG should examine how access to grants can be improved, and encourage all RDAs and councils, rural and urban, to adopt best practice in assessing the community impact of diversification projects. As a starting point, DCLG should work with DCMS to construct definitive guidance for local authorities on community pubs, the wider social issues involved in their services, and routes to secure their survival. In this, there is a ready made pool of experience within PiTH, and we urge DCMS to provide them with annual funding support. **(Paragraph 182)**

We understand that the SFLG scheme is to be reviewed, and urge BERR to remove the blanket exclusion for all 'tied' pubs. If a distinction needs to be kept between small businesses with access to some form of 'soft loan', the exclusion should state this, rather than exclude a number of needy pubs indiscriminately. **(Paragraph 186)**

The present flat rate VAT scheme for pubs should be replaced with a graduated scheme, perhaps stepped for each 5% or 10% shift from drink to food sales, and the scheme should be boldly promoted by HMRC and take-up monitored. **(Paragraph 192)**

- 17 Training** People 1st and DIUS have to do a better job of understanding that community pubs are small businesses, that as small businesses they have different training needs to larger managed houses, and that they need to be able to access training funding in bite-size pieces, and preferably on the job.

We call upon the Sector Skills Council, People 1st, to address this unacceptable deficit forthwith and recommend that its regulating body, UK Commission for Employment and Skills, ensures that it is taking such action. **(Paragraph 177)**

“ When you have lost your inns, drown your empty selves for you will have lost the last of England. ”

*Hilare Belloc*

## 8 GLOSSARY

**AWP machines** The profit from Amusement with Prizes machines (or fruit machines) traditionally provided community pubs with a valuable supplement to other income. Income has fallen significantly in the last five years, in part due to other forms of gaming becoming more accessible and offering more attractive prizes, including internet gaming and higher stakes fixed odds betting terminals, and in part because of the smoking ban.

Government sets the level of stakes and prizes for AWP machines following the recommendations of the Gaming Board and determines the level of licence duty payable on each machine. Prize levels were last increased in September 2007, to £35, and DCMS is currently consulting again.

Leased/tenanted pubs generally rent AWP machines from their pubco, sharing the proceeds. VAT is payable on supplier rentals and on AWP takings. Duty is payable via their licence.

**Beer Orders** The Beer Orders 1989 followed from the Monopolies and Mergers Commission's investigation into the supply of beer, setting a ceiling on the number of pubs that brewers could own. The Orders also specified that all 'tied' pubs owned by major brewers should be allowed to buy in a 'guest ale' of their choice. The large national brewers, who had previously owned substantial tied estates of managed and tenanted pubs (so guaranteeing outlets for their beer), were forced to divest a large proportion of their pub estates. Pub companies (Pubcos) emerged in their wake, the two biggest now being Punch Taverns and Enterprise Inns, who between them own approximately 30% of the UK's pubs. None of the UK's major brewers now owns any pubs, whilst the numbers owned by regional brewers has fallen slightly to 9,400. The Beer Orders were revoked in 2003.

**BII** BII is the professional and training body for the licensed retail sector, with 17,000 members. Through its wholly owned subsidiary, BIIAB, it sets standards and awards qualifications for the industry.

**CAMRA** The Campaign for Real Ale is an independent consumer group, founded in 1971 and now with 90,000 members. It campaigns for 'real ale, real pubs and consumer rights'. CAMRA first produced a 'Public House Viability Test' (qv. report para. 149) in 2000, to help planning departments assess the economic viability of existing pubs where applications are submitted for change of use.

**DCMS** The Department for Culture, Media and Sport has responsibility for government policy on tourism and leisure, including promoting and regulating the licensed trade.

**DCLG** The Department for Communities and Local Government sets policy on local government and planning and has responsibility for all community cohesion related issues in England.

**Freehouses** Freehouses are owned and managed by their licensees, with no purchasing obligations or ties to brewers or pubcos. There are approximately 21,000 in the UK, with industry statistics showing closures running at a marginally higher rate than leased/tenanted pubs in the first half of 2008.

**Leased/tenanted pubs** Approximately 30,000 of the UK's pubs are leased from pubcos or regional brewers by independent licensees who then run them as their own business, but with obligations to buy certain products from their pubco (see Tie), unless they are on a free of tie lease.

Total GB Pub Closures by Tenure	Dec 07	Jun 08	Diff	% Change
Free trade	21,854	21,476	-378	-1.70%
Leased/Tenanted	32,144	31,710	-434	-1.40%
Managed	10,454	10,318	-136	-1.30%

Source: CGA Strategy Limited



**LSC** The Learning and Skills Council is a non-departmental public body, responsible for improving 'the skills of England's young people and adults to ensure we have a workforce of world-class standard'. It plans and funds education and training for everyone in England other than those in universities.

**Managed houses** Managed houses are owned by a brewery or pub company who employ their own salaried managers and staff. There are approximately 10,000 in the UK. Managed houses tend to be the larger pubs, often branded, and in high streets or similarly busy locations.

#### **PiTH**

Pub is the Hub is an independent advisory trust, affiliated to Business in the Community, which advises pubs, their owners, their licensees and their communities on working together to support, retain and relocate essential services. It has completed 350 projects in the last six years, providing advice via a network of volunteer regional advisory groups (East Midlands, North West/Cumbria, Yorkshire/North East, South West, South East, Wales and shortly East Anglia). It is currently limited to rural projects. Pub is the Hub does not currently have capital grants for projects itself but seeks to leverage these locally.

**PPL** Public Performance Licence. In common with all clubs, bars, shops, restaurants etc playing recorded music, or music videos, pubs need to buy a licence from PPL (who effectively own the copyright to all of its members' recorded music or music videos in the UK). The licence fee is determined by the pub's square footage.

**Pubcos** Pubcos own the majority of the UK's community pubs. They emerged in the wake of the 1989 Beer Orders, buying freehold or leasehold pubs outright, and either managing them directly themselves or, more commonly, leasing them on to independent licensees on leased or tenanted agreements. Pubcos derive their income from 'wet rent' (the difference between the price they purchase 'tied' products, such as beer, from their suppliers and the price they supply on to their lessees), from their share of AWP income, and from 'dry rent' - the conventional property rent agreed at the beginning of each lease.

**Pubwatch** Pubwatch schemes link together licensees in an area with local police and local authorities to share information and agree what to do about people causing a nuisance on their premises. Normally this involves ringing round to pass on information about people refused entry or ejected for causing trouble. A number of schemes have taken this step further, agreeing policies to tackle other issues in their area, such as under-age drinking, domestic violence, drugs use, and even minimum pricing.

**The 'Tie'** Pubs which are leased or tenanted from a Pubco or regional brewery generally operate under some form of 'tie'. This means they are obliged to purchase some products, normally including a range of beers and sometimes also covering spirits and cider, from their pubco as a condition of their lease. This is their 'wet rent'.

#### **Trade Associations**

The pub trade's interests are represented by a number of trade associations, including:

**ALMR** The Association of Licensed Multiple Retailers, representing the interests of smaller independent companies that own and operate pubs, bars and restaurants in the UK.

**BBPA** The British Beer and Pub Association, whose members account for 98% of beer brewed in the UK and own more than half of Britain's 55,000 pubs.

**BISL** Business In Sport and Leisure is an umbrella organisation representing the interests of over 100 private sector companies in the sport, leisure, hospitality and tourism industry.

**FLVA** Federation of Licensed Victuallers Associations, which looks after the business interests of self-employed licensees.

**SIBA** The Society of Independent Brewers, which represents independent breweries in the UK and the interests of beer drinkers.

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