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tpx:guide
Pub Conversions

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Welcome to this guide which should give you an understanding the challenges of pub conversions and the legislation that applies to them, particularly with regard to planning permission in England

Town Planning Expert is an nationwide planning consultancy headquartered in South-East Hampshire. Our goal is to help clients achieve their aspirations by providing clear, considered and pragmatic advice based on a detailed knowledge of local and national planning policy, and insight into how decisions are made both locally and at appeal.

While we have tried to ensure that this information is as up to date as possible, legislation, particularly that introduced by local authorities, is constantly changing. You should check with us regarding the situation in specific areas.

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Pub Conversions

As the writing of this guide there are 403 public houses for sale or for rent in the UK. Some of these are still operating, most are not. We all know of that pub with a really bad reputation or that has been closed for 10 years or that pub that would make an excellent conversion.

To be honest pub's are a really attractive option for the new developer or the experienced developer as it seems an obvious problem to solve. The Council's need housing and the pub is vacant so lets put 2 and 2 together.

Pub conversions however can be one of the most challenging forms of development from a planning point of view. The levels of protection have increased dramatically and the effect of Localism has made pub conversions an intensely locally driven issue.

The 2019 NPPF states:

91. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

a) promote social interaction, including opportunities for meetings between people

who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

92. To provide the social, recreational and cultural facilities and services the community

needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities

(such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

The NPPF

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

In order to support the existing public houses the Government made changes to the General Permitted Development Order. Class A Part 3 Schedule 2 removed the ability of public houses to change use to a lower order retail use (Class A3, A2 or A1) (2017) and imposed a new Class AA allowing for a mixed use of Public House and Restaurant to support gastro-pubs (2017).

Finally the Localism Act (2011) and the Assets of Community Value (England) Regulations 2012 gave the local communities the ability to nominate public houses as ACV's where in essence the actual current (or recent past) use of ACVs must further the social wellbeing or social interests of the local community. It is also realistic to think that there can continue to be non ancillary use of the land or building that will further the social well being or social interests of the local community.

Put it this way, the house has definitely not rigged this in your favour.

The NPPF

Public Houses however as still worthwhile conversions, I have got planning permission for them myself and they are fantastic when done. So looking at the issues how can a developer front load their planning assessment to de-risk a pub conversion?

It's all about following the rules! So let's look at the commonalities and understand the rulebook.

We know we cannot use Permitted Development to help us get a pub use off the books so the next most effective strategy is one of policy compliance. This starts with your due diligence and works from there.

The Rules

Pub Conversions

The ACV Regulations at Schedule 4 require an ACV to be registered on the title of the land or building to which the ACV relates. This provides an 18 month window for a community interest group to purchase the building or land (Regulation 13(1)). Regulation 21(1) makes clear that you cannot dispose of an ACV if it contravenes the moratorium clause in the title (Regulation 13(1)).

Therefore if there is an ACV you will know about it through the searches before you buy.

If there is no current ACV the big next test is simple - is the public house still active?

ACV's

Pub Conversions

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If there is no current ACV the big next test is simple - is the public house still active?

If it's active then it is likely that the public house is still providing social, recreational and cultural facilities and services the community needs and as such the loss of the public house would not be able to comply with para 92(a) and (c) of the NPPF. In these circumstances leave the pub alone or go and have a pint and see if the beer is any good?

ACV's

If the pub is dead then now's the time to have a look

A dead public house has (probably) lost all of its goodwill value. Goodwill value is the value of the business as a trading entity. It also means that those who used to drink in the public house have moved on and are unlikely to file an ACV when the application to convert goes in. Ideally you need 5 years vacancy to support this argument and to take advantage of the policy conflict with para 68 of the NPPF which states:

68. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

c) support the development of windfall sites through their policies and decisions –
giving great weight to the benefits of using suitable sites within existing settlements for homes;

A Dead Pub

And

d) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

You can assess the likelihood of acceptability by using Permission In Principle (for smaller developments) and Outline Planning Permission for larger developments and these can be achieved at a fraction of the inbound cost of a full planning permission and are legally binding on the Council.

The other common policies require the building to be marketed for a period of time as a pub and not a development opportunity this is in order to allow the community to express whether it wants to retain the pub by seeking to buy it outside of an ACV.

A Dead Pub

In order to support this you normally need a marketing report in order to demonstrate that the property has been marketed:

As a pub

Online or in estates gazette

The number of years it has been marketed (normally up to 2)

The number of reductions in price in that marketing period

The number of offers received, and

Why the offers were rejected.

If the pub has been marketed as anything other than a public house then the marketing report is null and void as it has not been marketed to those wishing to run a pub.

A Dead Pub

Passing the Test

Pub Conversions

Once you have passed the main policy tests

You need then to work out the number of units the pub can take and whether or not you need to retain a commercial use within the building. Here are some examples:

If the pub is in the countryside you will probably want to gear the development towards houses rather than flats as less is often more!

If it's in a residential street in a town you can gear to flats if the market supports this however a mix of unit sizes is preferable based on market demand.

If it's in a town centre then you will need to retain the ground floor retail use as there will be another planning policy governing this area of the building.

Above all of these comply with the National Standards. They are to be used on all new dwellings and are easy to follow. You can find them at <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

Bibliography

Bibliography

National Planning Policy Framework

National Planning Practice Guidance

Town and Country Planning (General Permitted Development (England) Order) 2015

About TPX

Adding Value

Town Planning Experts is an independent nationwide planning consultancy based in South-East Hampshire.

We have significant knowledge regarding Houses in Multiple Occupation and have been successful in gaining planning permission for our clients or overturning Councils' decisions on appeal.

Our goal is to help clients achieve their aspirations by providing clear, considered and pragmatic advice based on a detailed knowledge of local and national planning policy, and insight into how decisions are made both locally and at appeal. We believe in making town planning simple!

Getting planning permission should be easy and straightforward so that you can concentrate on what is really important to you in your project. We believe that your journey through the planning process should be free and clear of obstacles. That's why we work hard to keep your risks as low as possible.

Not only are we confident in our abilities. We are also confident that you will love our customer experience. We set ourselves apart from others because we go the extra mile. Your experience is important to us so we make sure that there is nothing to trip you up, nothing hidden and nothing taken away. In short, piece of mind.

Whether you are thinking about a scheme, have difficulties in moving it forward or have run into problems with the local authority why not have a chat with us.

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