

**Babcary Parish Council response to applicant's appeal****Broad Principles**

1. The entire issue of whether the Red Lion was a suitable subject of an ACV was considered by Judge Findlay in 2022 at the General Regulatory Chamber appeal hearing CR/2021/0001. The applicant's appeal was rejected and the judge in her conclusion sets out very clearly the reasons why the ACV was upheld and spelt out in some detail why the ACV applies to the entire premises including the car park, beer garden, B&B rooms and marquee. See Appendix I, clause 56 onwards. Unless the applicants can demonstrate that the situation has radically changed in the last 4 years (and their appeal submission hasn't) her finding must still stand.
2. The Red Lion is the only pub in this little village. There are no shops or any other facilities other than a church and a playing field with a pavilion "Hut". The pub, which lies in the heart of the settlement, is therefore a significant community amenity, socially, historically and culturally. It does not need to be a "community hub" for it to be a community asset. The fact that the applicant understandably markets the pub as a "destination pub" does not prevent it also being a traditional local, central to village life. The Parish Council's prime aim in maintaining an ACV is to preserve the amenity of their local pub for the people of Babcary.
3. The legislation does not require the Parish Council to have a costed plan for buying the pub. The applicant has assured us that the pub is not for sale, and that he would never sell it, so it would be pointless for us to seek professional advice or to try to raise funds for something which might not happen for another five or ten years. Nevertheless informal (and confidential) discussions suggest that there is plenty of interest in taking over the pub, and plenty of funding, available from within the village. Informal research has been undertaken into neighbouring community owned pubs as well as with the Plunkett Foundation and CAMRA. The legislation quite reasonably gives the Parish Council six weeks in which to consider if there is a realistic chance of making a bid and then, if so, a further six months in which to put a bid together.
4. Parish Council procedures may not be perfect but there is no substantive flaw. Even if there was a fundamental failing in the application process the Parish Council could reconvene and submit a new ACV application within days and we would all be back

here with an identical review process. There is nothing to be served by following this line of argument.

5. The applicant implies that apart from a few occasional drinkers the pub is not used by locals. This would be news to the many villagers who eat there, the local groups who meet there regularly and to the villagers who put their friends and families into the B&B when their houses are full of guests. And it must be noted that there could be much more trade from locals if the applicants had not barred the entire Parish Council at the time (and others) from the pub permanently in 2022 because they opposed their planning application. The bar of course effects not only the councillors themselves but also, by extension, their households and other friends/neighbours who will not use the pub whilst the bar is in force.
6. The reference to part of the car park being “redundant” is curious as it’s often full. We understand that a pre planning enquiry has been submitted by the applicant for a dwelling in the car park but, as we have not seen the plan, we can have no view on its merits. In any case a pre planning enquiry is only that; it’s not a planning permission or even an outline planning permission and has no legal weight. Nevertheless any reduction in car parking space is likely to be controversial as there is no suitable alternative on street parking nearby. The roads adjacent to the pub are very narrow and we often see cars parked outside the pub bay windows causing congestions and a risk of accidents on the sharp bends and restrictions for heavy farm vehicles. If the applicant is repositioning the pub as a “boutique hotel for tourists” and as a wedding reception venue it is hard to understand why *less* parking would be required.

### **Specific rebuttals to the numbered clauses of the applicant’s submission**

Clause 14 & 53 - We have grave doubts over the assertion that only 10% of turnover is from the local community. How can the applicants possibly know this? The applicants themselves don’t generally work in the pub, they don’t know everyone in the village and their young staff mostly don’t live in the village also don’t know everyone. How would they know, and how do they record, if a sale of a drink or a meal is to a local or a tourist? If a local invites a friend from outside the village for a meal and the latter pays how is this classified? The use of the B&B is also opaque – how would the applicants know if the B&B guests were here to see locals or merely tourists passing through? Where is the evidence for the 10% estimate?

Appendix III shows the applicant’s Autumn guide to what’s on at the pub. None of this looks or feels like a “boutique hotel for tourists”.

The Boutiquehotel.me website lists 17 boutique hotels in Somerset. The Red Lion is not one of them. We would agree that the Red Lion is in part a destination pub. In these difficult times pubs in small villages all have to rely on trade from outside to make them viable and we

acknowledge the successful way in which the applicants have managed to create a pub which is both a destination pub AND a village local.

We suggest that the ACV review team visit the Red Lion incognito and judge for themselves if this is a “boutique hotel for tourists” or a traditional village pub. To quote the current home page of the Red Lion’s website: “*We are very much a locals’ pub, welcoming familiar faces into our rural watering hole to sit, chat, eat and drink in these beautiful surroundings*”. See Appendix V .

As far as we can establish “boutique hotel” is not a defined term. What is defined in law is that the Red Lion is a *public house* and from that it follows that it is, and always has been open to local residents and to outsiders, for drinks, food and more recently B&B and large functions. Can it really be classified as a hotel when it has only six rooms?

Clause 14 also asserts that the Red Lion is not for really locals, that the last *local* wedding was in 2011, but it does not state how many wedding receptions have been held since then – very few. It is also the case that since 2011 local couples, who have held their wedding receptions elsewhere, have still made use of the pub for food and drinks and the B&B for guests.

Clause 15 - Styling the Red Lion as a “boutique hotel” will come as a surprise to the locals who frequent the pub; to the village cycling club who meet there regularly, to the villagers attending the monthly live music night, those who went to the quiz night, those who enjoy the pizza nights, to the pensioners who meet and eat there frequently and to the new village cricket team who meet there after a game. To measure the value of the pub to the community by the measuring the local’s percentage of the pub turnover makes no sense, particularly if it’s only an estimate. It’s the value (non financial) to the community that is important here.

Clause 17 & 103 - Much is made of the case of the *Notley Arms Inn* setting a precedent for not granting ACVs on “boutique pubs”. If we are to go by precedent we must look to case law, preferably in a higher court, and more relevant to this case - which must be the case of *Garrard v. South Somerset Council & Bab Cary Parish Council GRC 2021*.

Clause 19 & 30 - The date of the application for the ACV is immaterial as it was timed to come into effect from the date of the expiration of the previous ACV i.e. on 3<sup>rd</sup> September 2025, well after the Parish Council resolution.

Clause 23 & 28 - For the Parish Council to consider the ACV under Any Other Business was perfectly acceptable as it was not a substantive issue or decision, merely to confirm the

continuation of an existing ACV. There was no change of policy just a renewal of the ACV – the status quo. The Parish Council has not seen any change in the business proposition or the buildings/infrastructure of the Red Lion in the last few years that might suggest any reason to change the ACV. As the applicant's themselves have pointed out, pubs are struggling more than ever before.

Clause 24 – The Parish Council agendas are available on the parish council website and hard copies are held by the Parish Clerk available for inspection on request as required by legislation. There was a glitch in the online agenda records recently but this has now been corrected. Minutes are always circulated to every household in the monthly village newsletter as well as being online.

Clause 32 - The Parish Council minutes record the decision to apply for an extension to the ACV. This is a very small parish and we very rarely actually take a formal vote. It is perfectly in order for the clerk or the chairman to conduct correspondence on behalf of the parish council and to use their home address for correspondence as we have no parish premises.

Clause 33 – As is normal practice for parish councils, the minutes are not a verbatim record of everything said but merely a summary of the key points/decisions made and written in simple plain English rather than polished legal terminology.

Clause 37 – the full legal compliment of Babcary Parish Council is seven people and as such we are empowered by legislation to nominate an ACV. All our meetings have been quorate.

Clause 53 – to claim that this Grade II listed thatched pub in the heart of the village does not have significant use as a village pub is frankly bizarre. At Appendix II is a copy of an advert which the applicants placed in the village newsletter a few months ago. This sets out exactly how they perceive the pub being at the heart of the village life. For this autumn the applicants have scheduled another annual Christmas Gift & Farmers Market, a Halloween Fancy Dress and Village Kids Trick or Treat, a Live Music night and Christmas Day Dinner – see Appendix III - demonstrating the importance the applicants attached to local trade and in direct contrast with what is written in their appeal. Likewise their use of the Babcary Residents Whats App group to advertise events for locals (which initiatives we welcome) – see Appendix IV.

Clause 54 – quoting the “Eat out to help out” event as a measure of local use is to base it on a completely unique situation five years ago which hopefully we won’t see again; and to suggest that only 12 out of 3,000 meals were served to locals is somewhat improbable.

Clause 63 & 110 – In the case of *Garrard v Somerset Council & Babcary Parish Council 2021* the judge found that the B&B rooms were an integral part of the business and that they could not be disaggregated from the pub business – see Appendix I. The three services (food, drink and accommodation) mutually support each other; B&B guests also eat and drink in the pub, pub staff service the B&B rooms, the pub kitchen is used to prepare guest breakfasts. In addition the B&B rooms are attached to the pub by a Section 106 agreement. Why would the applicants seek to remove the B&B from the ACV if it is indeed a “boutique hotel”?

Clause 72 claims that the pub cannot be a community hub because the village already has one. This is misguided. No one is suggesting that the pub should be a “community hub” and the ACV legislation does not require assets for listing to be community hubs.

Clause 84 claims that a village of 248 people cannot generate enough footfall to support a “community pub” but no one is suggesting that this would be attempted. The applicant has demonstrated, and we agree, that the pub must, to some degree, be a “destination pub” and bring in customers from outside - but this does not prevent the pub from also being a much loved local. If the village were to purchase it the pub would undoubtedly be run commercially to attract customers from outside as well as from within the village. In this context it is also important to consider who might be considered a “local” for whom the Red Lion is a community asset. We have generally only considered the residents of this parish as “locals” but in truth there is a much wider network of “locals” from neighbouring villages whose own pubs have closed down. The Red Lion is now the only pub within the Six Pilgrims group of churches/parishes since The Pilgrims at Lovington closed down and residents in Charltons Adam & Mackrell next door have lost the Fox & Hounds whilst the residents in Butleigh have lost the Rose & Portcullis. In our view the ACV legislation does not restrict “community” to those strictly resident within the parish but can quite reasonably take a wider view of community to include those in neighbouring farms and villages who think nothing of driving to their favourite nearby pub. The village pub, of which the Red Lion is a shining example, is a much loved British institution which we wish to maintain not just for ourselves but for our friends in neighbouring villages.

Clause 85 - It is simply misleading to suggest that community owned pubs only work in, or are only suitable for, large conurbations. The Alhampton Inn at Alhampton, the Kings Arms at Stockland and the Hop Pole at Limpley Stoke are just three nearby examples of successful community owned pubs in little villages. Traditional village pubs are exactly the type of

community asset that the legislation was designed for. The “Hut” on the playing field might indeed be something akin to a village hall but that has nothing akin to the facilities of the Red Lion as a social amenity for the village – they are quite different. And it should be noted that the Parish Council could not hold meetings in the pub as this would be illegal (even if councillors were not barred).

Clause 91 – the large and growing number of community owned pubs now operating up and down the country are proof that the Parish Council’s wish to have the Red Lion as a listed as a community asset and give the village the option to bid for the premises should the need arise is not in the least fanciful.

Clause 95 – In the case of *Garrard v Somerset Council & Babcary Parish Council 2021* the judge held that the ACV applied to the entire premises including the car park as to remove car parking from a country pub would be detrimental to the business and therefore the existence of the public house, the community asset. At the time of the planning appeal in 2022, when the applicants wish to build over most of the car park, convert the B&B into a dwelling and the marquee function area into another dwelling we monitored car parking levels and found that the car park was quite commonly full and we therefore contested the plan on these and other grounds. The applicant’s appeal was turned down.

We remain unclear how the applicant’s wish for the premises to be a “boutique hotel” catering for large functions for tourists is consistent with a reduction in car parking provision. When the car park is full cars spill out onto the narrow country lanes nearby. The Highways Authority have been unable to identify *any* safe on street parking locations nearby.

## **Conclusion**

The Parish Council legitimately nominated the renewal of the ACV listing on the Red Lion and our view that we may wish to bid for the pub should it come up for sale is perfectly credible. Community ownership of village pubs is now an established practice and there are many models for us to adopt. The Red Lion is a classic a village pub in every way, a key part of the community as the applicants themselves have stated, and the 2022 GRC appeal and subsequent finding *on this very pub* is evidence of why an ACV continues to be appropriate.

Babcary Parish Council

29<sup>th</sup> October 2025