



The Occupier/Others

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Date: 11 April 2024

## TOWN AND COUNTRY PLANNING ACT 1990 APPEAL UNDER SECTION 174

**Appellant's name:** ATE Farms Limited  
**Site Address:** The Crooked House, Himley Road, Himley, Dudley, DY3 4DA  
**Alleged breach:** Without planning permission, demolition of an unlisted building, formerly known as the Crooked House ("the Building"), located in the position outlined in blue on the Plan.  
**Enforcement reference:** 23/00199/UNDEV  
**Appeal reference:** APP/C3430/C/24/3341483  
**Appeal start date:** 28 March 2024

I refer to the above details. An appeal has been made to the Secretary of State against an enforcement notice issued by South Staffordshire District Council on 27 February 2024.

### **The enforcement notice was issued for the following reasons:**

- i) It appears to the council that the above breach of planning control has occurred within the last four years.
- ii) The Building is a non-designated heritage asset which is listed on the Staffordshire HER (Historic Environment Record) and its significance and historic importance is set out in the Heritage Statement (Appendix 1).
- iii) The demolition of an unlisted building constitutes development within the meaning of section 55 of the Town and Country Planning Act (as amended) and demolition was not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 due to paragraph B.1(c) of Part 11 of Schedule 2.
- iv) The main pub structure and extensions have been demolished.
- v) The unauthorised demolition of the Building resulted in the loss of a community facility of local historic significance and interest which was included in the Historic Environment Record (HER) as further detailed and set out in the Heritage Statement annexed to this Notice at

Appendix 1. At the time of demolition, Historic England was in receipt of an application to list the Crooked House. However, due to its demolition, Historic England did not have the opportunity to assess it and determine if it was suitable for listing. The Local Planning Authority was progressing the Building to be included on the “Locally Listed Buildings” register. Had the Building not been demolished it would have been included in the Locally Listed Buildings register as the building would have met the criteria for local listing as set out in the Heritage Statement.

vi) National Planning Policy Framework Chapter 16 Conserving and enhancing the historic environment: Paragraph 195 states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 200 notes in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. The demolition of the Building is contrary to these policies as the Building is listed on the Historic Environment Record and is therefore considered to have the same level of protection as a non-designated heritage asset. There was no ability for the Local Planning Authority to fully assess the implications of its loss as no desk-based assessment or field evaluation was carried out to assess the potential impact of the demolition on the nondesignated heritage asset.

vii) The loss of this community facility is contrary to Chapter 8, Paragraph 97 of the National Planning Policy Framework which sets out the need to “provide the social, recreational and cultural facilities and services the community needs, and 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;

(b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

(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;

(d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community;”

viii) Demolition of the Building is contrary to Policy EQ3 of the 2012 South Staffordshire Council adopted Core Strategy which is to protect and enhance the historic environment. The development that has been undertaken has resulted in the loss of a focal building due to its siting, design and historical association with the area, which although was in a remote location, had a socially prominent position and therefore is contrary to policy EQ3.

ix) The demolition of the Building is contrary to Core Policy 10 of the South Staffordshire Council adopted Core Strategy: Sustainable Community Facilities and Services. Policy EV9 of Core Policy 10: Provision and Retention of Local Community Facilities and Services does not support the loss of community facilities and services including public houses as a local community facility and service. Community facilities should be sought to be retained wherever possible where they make an important contribution to the vitality of the place and quality of life/wellbeing of local communities and the maintenance of sustainable communities.

**The enforcement notice requires the following steps to be taken:**

Rebuild the Building, located in the position outlined in blue on the Plan attached to this notice, so as to recreate it as similar as possible to the demolished Building as it stood prior to the start of demolition on 5 August 2023, to include the original pub building and later additions of the rear-extension and toilet block. For the avoidance of doubt such restoration shall include, but not be limited to steps (i) and (ii) as set out below:

i) Construction works as are required in order to reinstate the Building to its former dimensions and style as a public house including the provision of customer toilets within the Building and all necessary services and utilities. The construction and style of the Building are illustrated on the plans and photographs annexed to the enforcement notice (Appendix 2); and

ii) Reconstruct the Building in design and materials to match those used in the original structure including but not limited to:

**Walls and bricks:**

Reclaimed bricks from the Crooked House should be used for the construction of the exterior walls or modern alternative to match in colour and texture. These should be laid in a bond based upon the photographic evidence of the elevations (Appendix 2 pages 1-5) (principal building in a variety of bonds). Where additional materials are required, suitable reclaimed bricks should be sourced to match to existing materials.

**Front elevation:**

Unpainted brick finish.

**Side (right):**

Unpainted brick finish.

**Side (left):**

Unpainted brick finish with tile hanging to top of gable.

**Rear elevation:**

Unpainted brick finish.

**Roof:**

The roofing should be of a traditional slate to match the appearance of the roof prior to the demolition of the building.

**Principal building (the two-storey building as shown in Appendix 2 pages 1-4):****Ground Floor:**

Rectangular in form and three bays wide with central doorcase with rectangular fanlight above and black painted timber door. Timber six over six sashes with horns to other two bays to the front elevation. White painted windows, reveals and sills. Rear elevation of original 1765 building with two timber casement windows in arch headed openings. Originally central plain door with arched head in line with door to front. Five black cast iron pattress plates and tie rod at top of ground floor level externally.

**First Floor:**

Front elevation with three timber six over six sashes. The central bay with a smaller, plainer sash without horns. The left and right bay with large sashes with horns matching those on the ground floor. White painted windows, reveals and sills. Gilt letter signage ("The Crooked House") between central doorcase and first floor window. Signwriting ("Banks's Ales") at first floor level between windows.

**Eaves:**

Round profile black rainwater goods and mesh along front of roof to prevent tile slip.

**Right elevation:**

The right-hand side elevation with attached single storey addition with slate roof. Two stacks set inside gable wall.

**Left elevation:**

Three substantial buttresses supporting the gable end. Two small modern rooms containing plant and stores located between the buttresses. Plant stores of modern matching brick with slate roofs to match rest of building. One louvred and one timber door painted to match woodwork to rear of building. The upper portion of the gable with tile hanging to match roof. Two stacks set inside the gable wall.

**Single storey extension:**

Single storey brick building (stretcher bond) of the 1980s with pitched slate roof, forming the toilets of the public house.

**Walls:**

Unpainted red brick (modern 1980s). Reclaimed materials from the demolition should be re-used based upon the photographic evidence (Appendix 2 photograph 1) or matching materials sought.

**Roof:**

Pitched slate roof to match principal building.

**Windows:**

Small square timber window with obscured glazing and white painted frame to the elevation facing the car park (as per the photographs on page 1 and Section D-D page 23 in Appendix 2).

**Restaurant extension:****Walls:**

Unpainted brick finish in modern brickwork matching to the original masonry of the main building.

**Roof:**

Mono-pitch slate roof to match others on main building and toilet block. Central glazed section with projecting timber and glass gable. Second small gable above clad in lead.

**Windows:**

Timber screen wall with central projection formed by French doors to patio area. Timber panelling below windows with etched and stained glass. All timber work painted black.

**Doors:**

Arch topped timber double doors to end furthest from main building and modern timber doors to end closest to main building. Both painted black.

**The appellant has appealed against the notice on the following grounds:**

**Ground (a)** – that planning permission should be granted for what is alleged in the notice.

**Ground (b)** – that the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

**Ground (c)** – that there has not been a breach of planning control.

**Ground (f)** – the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections.

**Ground (g)** – that the time given to comply with the notice is too short.

The appeal will be determined on the basis of an **inquiry**. The procedure to be followed is set out in the Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002.

If you wish to make comments, you can do so online at [Planning Inspectorate - GOV.UK \(www.gov.uk\)](https://www.gov.uk) **(Please note that the Planning Inspectorate will not be accepting emailed comments.)** If you do not have access to the internet, you can send your comments to:

Adewale Ajibade  
The Planning Inspectorate  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**All representations must be received by 9 May 2024.** Any representations submitted after the deadline will not usually be considered and will be returned. The Planning Inspectorate does not acknowledge representations. **All representations must quote the appeal reference.**

Please note that any representations you submit to the Planning Inspectorate will be copied to the appellant and this local planning authority and will be considered by the Inspector when determining the appeal.

If you submit comments and then subsequently wish to withdraw them, you should make this request to the Planning Inspectorate by the date above.

The appeal documents (including the decision when made) can be viewed online at [Enforcement Appeal Cases \(sstaffs.gov.uk\)](https://sstaffs.gov.uk) by clicking on the relevant Enforcement appeal case.

You can get a copy of one of the Planning Inspectorate's "Guide to taking part in enforcement appeals" booklets free of charge from the Planning Portal at: [Taking part in a planning, listed building or enforcement appeal - GOV.UK \(www.gov.uk\)](https://www.gov.uk) or from us.

When made, the decision will be published online at <https://acp.planninginspectorate.gov.uk> and the Council website. Paper copies of the appeal decision can be obtained from the Council. Please be aware that there may be a copying fee.

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