

South Staffordshire Council

**STATEMENT OF CASE
OF
SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

**INSPECTORATE REFERENCE:
APP/C3430/C/24/3341483**

SECTION 174 TOWN & COUNTRY PLANNING ACT 1990

**APPEAL BY:
Mr. Adam Taylor**

**SITE AT:
The Crooked House
Crooked House Lane
Dudley
DY3 4DA**

Local Authority reference: 23/00199/UNDEV

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APPENDICES

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1. INTRODUCTION

- 1.1 This statement is prepared in respect of an appeal brought against the decision by South Staffordshire District Council in the following matters:

Section 174 Town and Country Planning Act 1990 in respect of an Enforcement Notice in respect of The Crooked House, Crooked House Lane, Dudley, DY3 4DA.

Appeal Reference: APP/C3430/C/24/3341483.

2. SECTION 174 APPEAL AGAINST ENFORCEMENT NOTICE

- 2.1 The alleged breach of planning control is:
- i. 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.

3. SITE DESCRIPTION AND REASONS FOR ISSUING THE NOTICE

- 3.1 The appeal site is located within the West Midlands Green Belt. The Crooked House was a public house consisting of basement, ground and first floor levels. The site is surrounded by landfill sites on the site of the former Himley Colliery. The property was located at the end of Crooked House Lane, which is accessed from Himley Road (B4176) close to its junction with Brick Kiln Lane. The site is not located within a conservation area. The site is approximately 1.1 hectares in area.
- 3.2 The appeal site is accessed off a single-track unadopted road leading off the Himley Road (B4176). The site is linear in shape and a public right of way runs along the Southern edge of the site.
- 3.3 The reasons for issuing the Notice are:
- 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 non-designated 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 (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, (d) ensure that established shops, facilities and services 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.

4. RELEVANT PLANNING POLICY

National Planning Policy Framework

Chapter 8, Paragraph 97.

Chapter 16 Conserving and enhancing the historic environment: Paragraphs 189, 192, 195.

Paragraph 93 (c) of the NPPF- to guard against the unnecessary loss of valued facilities and services.

South Staffordshire Adopted Core Strategy

CP2 – Protecting and Enhancing the Natural and Historic Environment.

EQ3 – Conservation, Preservation and Protection of Heritage Assets.

Policy EV9.

Core Policy 10.

5. PLANNING HISTORY

- 5.1 Planning application 86/00579 for ‘alterations and extensions’- approved with conditions.
- 5.2 Planning application 91/00051 to ‘Realign access road and provision of additional car parking’- approved.
- 5.3 Planning application 93/00137 for ‘Landscaping and children’s play area and fencing’- approved.
- 5.4 The permitted use of the land subject of the Enforcement Notice Appeal is as a drinking establishment.

6. SUMMARY OF EVENTS

- 6.1 A fire occurred at The Crooked House on the night of 5 August 2023 which gutted the Property leaving only a partial burnt out shell.
- 6.2 The Council met with Ethan Taylor on site and assessed the condition of the burnt out shell in Ethan’s presence to identify what work was needed to make the burnt out shell safe and secure.
- 6.3 The Council noted that there were three small sections of the front façade first floor walls that looked imminently dangerous however the Council concluded that the remaining shell was not in need of demolition.
- 6.4 Three areas of the front façade were discussed which were identified by the Council as ‘imminently dangerous’ and the work to be undertaken to remove these three sections was discussed.

- 6.5 Discussions took place between the Council and Ethan Taylor regarding the best way to reduce the sections of wall that were imminently dangerous, and it was suggested using a cherrypicker to take the sections down gradually and gently. The Council observed an excavator on site and informed Ethan Taylor that it would not be a good option to use that to remove the three sections identified.
- 6.6 The council did not agree, imply or give permission for the demolition of the remaining shell and only agreed for the three sections of the front façade at first floor level to be removed in a sensible and safe way.
- 6.7 The Council Officers left the site at about 14:15 hours on 7 August 2023. By 18:30 hours on the same day there was evidence that the burnt out shell had been completely bulldozed to ground level.
- 6.8 On 17th August 2023, a letter was sent Special Delivery to Carly Taylor (registered owner of the Land at the time of the demolition) and Adam Taylor who have a confirmed interest in the land to inform them that no further demolition or removal of materials from site should take place unless instructed by a lawful body such as South Staffordshire Council, the Health and Safety Executive or Environment Agency and to inform the council and seek their authorisation before carrying out any further work to the site, including site clearance. They were informed that failure to inform the council and seek their authorisation may result in legal action to prevent deterioration of the site.
- 6.9 Site clearance was undertaken by Putnam Construction Limited who were instructed by the site owner, Adam Taylor. Approximately 25,000 bricks from the demolished building were salvaged and stored on pallets in secure containers on site.
- 6.10 On the 18th August 2023, a Planning Contravention Notice (PCN) was served on Adam Taylor and Carly Taylor. Responses received from both parties (Appendix 1 and 2).
- 6.11 On 20th September 2023 a site visit was carried out by council officers and a building surveyor from Historic England. Adam Taylor also attended site and a site inspection was undertaken.
- 6.12 On 8th November 2023, a face to face meeting with Adam Taylor and his planning agent took place at South Staffordshire Council Offices to discuss next steps.

- 6.13 On 20th November 2023, the council received responses from Adam Taylor to the additional questions raised by Catherine Gutteridge (Appendix 3).
- 6.14 The owner, Adam Taylor, secured the site of the former Crooked House public house, but, to date, no steps to rebuild the unlawfully demolished building have been undertaken by the owner.
- 6.15 Due to poor weather conditions over the winter months of 2023/2024, and ingress of water to the site, one of the vaulted cellars collapsed and the site continued to deteriorate.
- 6.16 A temporary six-month closure order of the public right of way leading to the site was issued by County Rights of Way on 22 September 2023. The temporary closure order expired on 22 March 2023 and the Secretary of State granted an extension to the Order for a further six months until 22 September 2024. The temporary right of way closure has now expired.
- 6.17 On 27 February 2024, South Staffordshire District Council issued an Enforcement Notice under Section 171A1(a) of the Town and Country Planning Act 1990 in relation to land at Crooked House, Crooked House Lane, Dudley, DY3 4DA.
- 6.18 The Enforcement Notice was served on The Company Secretary ATE Farms Limited, Mr George Adam Taylor (Adam Taylor) and Ms Carly Taylor and a Notice was served on the site of The Crooked House.
- 6.19 An appeal against the Enforcement Notice was lodged with the Planning Inspectorate on 26 March 2024.

7. GROUND OF APPEAL (in order in which they should be considered)

- i. **Ground (b)** That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- ii. **Ground (c)** That there has not been a breach of planning control.
- iii. **Ground (a)** That planning permission should be granted for what is alleged in the notice.

- iv. **Ground (f)** The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
- v. **Ground (g)** The time given to comply with the notice is too short.

8. LPA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND B- That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

8.1 The breach of planning control alleged in the notice is:

- i) 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.

8.2 The simple point is as a matter of fact it is undeniable that the Building was demolished i.e destroyed and broken up. However, the Appellant’s arguments under Ground B) raise several points which more go to the description of the breach of planning control and Ground C) matters. But, in so far as relevant, the Council will address them here.

Section 55(1) of the Town and Country Planning Act (as amended) provides:

“...“development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”

Section 55(1A) provides:

“For the purposes of this Act “ building operations ” includes - (a) demolition of buildings ...”.

8.3 Demolition is development as it falls under ‘other operations’ as listed in section 55(1) of the Town and Country Planning Act 1990 (‘the 1990 Act’). The council can

categorically state that planning permission was not applied for, or granted by the LPA, prior to the Crooked house being demolished.

- 8.4 According to the Grounds of Appeal, the Appellant's case under Ground B) – on which they hold the burden to prove – is twofold. Although these points are pleaded under Ground B) there is significant overlap with Ground C).
- 8.5 The first is that the demolition is not development because the fire was not started nor caused by the Owner or Occupier. The Council will set out why this is a misunderstanding of the law and the planning regime. Under s.172 of the 1990 Act the Council is entitled to enforce against where there has been a breach of planning control. The enforcement must be taken against – per s.172 (2) – the Owner and Occupier of land and any other person with an interest in land. There is no requirement to serve the specific person who caused or carried out the breach of planning control. Just the Owner/Occupier of the land on which the breach occurred.
- 8.6 A breach of planning control includes the carrying out of development without the required planning permission. This incorporates the definition of development at s.55 which includes 'demolition'. Nowhere does the legislation set out – nor is there any caselaw support – for the proposition that development will only require planning permission if it is carried out with the landowner's consent/knowledge. The identity of the developer is not relevant for whether something falls within the definition of s.55.
- 8.7 At most 'identity' could be seen as a factor in questions of expediency of enforcement. But it is longstanding and trite law that through the operation of s.285 expediency is not a relevant issue for a Planning Inspector on Appeal. There is no ground of appeal that the Council's decision was not expedient. Instead, if a challenge is to be made as to the expediency of enforcement, then it must be done by judicial review within six weeks of the decision to enforce (see **R (Gazelle Properties Ltd) v Bath & NE Somerset Council** [2010] EWHC 3127 (Admin)). While the Council is entirely confident in the expediency of their decision to enforce, it is academic/irrelevant for the issues that can be raised on the Appeal.

- 8.8 Instead, the question is simply whether development under s.55 has been carried out on the land without permission. If there has been, then this is a breach of planning control under s.171A. This would then allow the Owner/Occupier to be issued with an Enforcement Notice under s.172.
- 8.9 In this case the Crooked House was demolished. This occurred as a matter of fact, and it occurred on the Appellant's land. The Council was entitled to enforce against the Appellant regardless of how the fire was started.
- 8.10 The Appellant's second argument is that the demolition of the Property only took place on 7th August when the remained post fire shell was dismantled. They argue that the fire did not demolish the Crooked House. This is incorrect and seeks to impermissibly and artificially divide the breach of planning control. The proper approach is to look at end result – the Crooked House demolished (i.e. destroyed and broken up) rather than artificially splitting it up into the individual actions that led to it. The breach included both the fire and the subsequent bulldozing of the burnt-out partial shell that remained after the fire as an act of unauthorised demolition which was carried out without planning permission.
- 8.11 As a matter of fact the Crooked House was demolished and so Ground B) must fail.

9. **LPA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND C-** That those matters (if they occurred) do not constitute a breach of planning control.

- 9.1 The Appellant's Ground C) is predicated on the mistaken basis that the only act of demolition was the bulldozing of the burnt out shell. That is incorrect for the reasons set out above: the Crooked House was demolished and while that act of development involved both the fire and bulldozing, it is still a single breach of planning control. To find otherwise would introduce absurdity into the planning regime whereby each element of a demolition process would have to be considered in isolation as to whether it was 'development' and permission be granted for those elements which were. That is not right and on that basis alone Ground C) fails.

- 9.2 However, the Appellant's Ground C) is also running an argument that is wrong in law. The Appellant argues that they didn't need permission because the Council gave permission for the works on 7th August 2023.
- 9.3 This is factually incorrect as the Council did not give or imply permission to demolish the Crooked House nor elements of the burnt out shell above and beyond the three limited dangerous sections on the front façade at first floor level that was agreed verbally on site by the Council Officer and the Appellant's representative on Monday 7 August 2023.
- 9.4 No assessment was undertaken by a suitably qualified structural engineer (preferably CARE accredited due to the nature of the building) to establish the structural stability of the shell post fire and critically no application to demolish the Crooked House was submitted to the Council for consideration. The Council was not informed of the Appellant's intention to demolish the shell for public safety reasons and was given no opportunity to object or comment on the proposed demolition of the shell as it stood on 7 August 2023 after the fire had occurred.
- 9.5 The argument is also legally incorrect. A local authority cannot give consent for an act of development to be carried out so as not to require planning permission. A local authority does not have the power or right to abrogate the controls of the planning regime.
- 9.6 This is clearly illustrated by **R (on the application of Samuel Smith Old Brewery (Tadcaster)) v Redcar and Cleveland Borough Council** [2023] EWHC 878 (Admin) which involved an even starker example. There the Court held that even where a local authority demolished a building relying on a 'dangerous building' statutory notice issued under s.78 of the Building Act 1984, they were still legally under the requirement to seek retrospective planning permission for their development. This was the case even though they were acting under the statutory authority of the Building Act 1984:

For all these reasons, I conclude that ground 1 succeeds, to the extent that section 78 does not abrogate the controls in the town and country

planning legislation, including the requirement to obtain planning permission where this is required in respect of the steps to be taken by a local authority acting under section 78; in this case, the demolition of an unlisted building in a conservation area.

9.7 If planning permission is required even after a local authority obtains statutory approval for demolition under the Building Act 1984 and carries out the demolition themselves, then it must be required even if (which is strongly disputed) Council Officers had given express permission.

9.8 The Appellant's Ground C) is predicated on the misdescription of the breach of planning control, on an incorrect factual basis, and cannot be right in law. The Crooked House was demolished without planning permission, and it is the Council's case that the unauthorised demolition of the Crooked House was a clear breach of planning control. Ground C) must fail.

10. **LPA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND A-** That planning permission should be granted for what is alleged in the notice.

10.1 The case for the Local Authority is straight forward. The development subject of the appeal is unauthorised and should not be granted planning permission.

10.2 In the Appellant's Grounds of Appeal it is set out that:

For the avoidance of doubt, the Appellant is not relying upon Ground (a) to argue that planning ought to be granted to permit the demolition of the building as it stood on 5th August 2023. The Appellant's case is that the fire was an accident, or possibly due to the actions of a third party. The damage caused by the fire on 5th and 6th August 2023 was not a breach of planning control. Ground (a) is relied upon only if (which is denied) the Secretary of State determines that any actions of the Appellant or its contractors following the fire constituted a breach of planning control.

10.3 The Appellant has therefore accepted that if the breach of planning control was the demolition of the Crooked House as it stood before the fire (i.e. the Council's case)

then they do not seek a Ground A) Appeal and accept that permission should not be granted.

- 10.4 Instead, their Ground A) is entirely predicated on their argument that the breach of planning control was only the bulldozing of the burnt out shell. If they are correct, then they seek permission under Ground A) to demolish the burnt out shell. That is the limited scope of their pleaded Ground A).
- 10.5 The Council's case that the breach of planning control was clearly the demolition of the Crooked House as a whole and therefore the Appellant accepts that Ground A) does not arise in those circumstances. The Council does not envisage that there will need to be evidence called on the planning merits on the demolition of the Crooked House.
- 10.6 However, if (contrary to the Appellant's Grounds of Appeal) they do seek permission for the demolition of the Crooked House then the Council will set out why such permission should be refused according to s.38 (6) of Planning and Compulsory Purchase Act 2004. While the Council reserve the right to expand on the below if the Appellant does depart from their Appeal Grounds and seeks permission for the demolition of the Crooked House, the following points would be raised to resist any Ground A).
- 10.7 The level of harm caused by the demolition of the Crooked House clearly outweighs any factors in favour of the development in the planning balance. The demolition of The Crooked House is contrary to the National Planning Policy Framework and the South Staffordshire adopted Core Strategy:

NPPF:

Chapter 8, Paragraph 97.

Chapter 16 Conserving and enhancing the historic environment: Paragraphs 189, 192, 195.

Paragraph 93 (c) of the NPPF- to guard against the unnecessary loss of valued facilities and services.

South Staffordshire Adopted Core Strategy:

CP2 – Protecting and Enhancing the Natural and Historic Environment.

EQ3 – Conservation, Preservation and Protection of Heritage Assets.

Policy EV9.

Core Policy 10.

- 10.8 Loss of a community facility. Core Policy 10 of the Core Strategy provides that the Council will support proposals and activities that protect, retain or enhance existing community facilities and services or lead to the provision of additional facilities that improve the wellbeing and cohesion of local communities and ensure that communities are sustainable.
- 10.9 Policy EV9 of the Core Strategy states that proposals for redevelopment or change of use of any premises currently used or last used to provide essential facilities or services which support the local community, whether of a commercial nature or not, will only be permitted where the Council is satisfied that:
- a) it has been demonstrated through a viability test that the use concerned is no longer economically viable, that all reasonable efforts have been made to sell or let the property at a realistic price for a period of at least 12 months, the use could not be provided by some other means, or is genuinely redundant; and
 - b) the premises or site or an unused part of the building cannot readily be used for, or converted to any other community facility; or
 - c) the facility or service which will be lost will be adequately supplied or met by an easily accessible existing or new facility in the local area or the village concerned, unless it has been accepted as redundant under criterion (a) above; and
 - d) the facility concerned was not required to be provided and or retained as part of a planning permission for a new development.

- 10.10 Development proposals that enhance the provision of community facilities and services in accordance with Core Policy 10 will be encouraged and supported.
- 10.11 Public Houses are essential facilities and services under policy EV9 and the premise does not have to be the sole remaining use in an area for the policy to apply.
- 10.12 The Appellant does not consider the building was functioning as a community facility immediately prior to the fire on two considerations, i.e. the closure of the public house and the sites isolated location. The premises last day of business was on the 25th of June 2023 and the site was purchased by the Appellant on the 21st of July 2023.
- 10.13 Whilst the site is in a rural setting and accessed via a long private road from the B4176 (Himley Road), it is still within a close distance to large built-up urban areas e.g. Gornal and Kingswinford which fall under Dudley Borough. There are no footpaths along the private drive, however there is connectivity and well-lit footpaths along the East of Himley Road (12 minute walk from the residential areas) to the access drive. There is also a public right of way (Himley 1 and 2) which runs through the application site. Until its potential closure (only necessary on precautionary grounds on a temporary basis) had been operating as a public house since around 1830.
- 10.14 Although it may have been closed at the time of the fire, it is clear that the last use of the building and its lawful use was that of a public house serving the local communities by way of food and functions such as weddings. In accordance with Policy EV9, the loss of premises last used to provide community facilities will only be permitted where a viability test has been undertaken to demonstrate the use is economically unviable. Whilst the Appellant's view is that the use as a public house was no longer viable, no such assessment was submitted to the Council for consideration. The viability assessment should include a likely business model with an analysis of issues such as customer base and footfall, turnover and essential renovations (including re-building and insurance details in this case). There may be many reasons why the brewery sold the premises, it does not necessarily mean it was not viable in planning terms.
- 10.15 There are other public houses nearby, notably The Himley House Hotel and The Dudley Arms, within 2 miles. Both of these are successful pubs serving food. However, this

does not mean there is no demand for The Crooked House, but could easily indicate given the sites easy reach to a large metropolitan area, there is a high demand for pubs in these areas. Therefore, it does not necessarily follow that the use as a drinking establishment is not viable in different circumstances, particularly given its extensive parking area, uniqueness of the building and access to a large built-up conurbation.

- 10.16 To conclude on EV9, the demolition of the Crooked House has resulted in the loss of a community facility, contrary to policy EV9 and planning permission should not be granted for the demolition of this historic and iconic landmark.
- 10.17 Heritage – non-designated asset. Policy EQ3 of the Core Strategy seeks to protect, conserve and enhance the district's natural assets, including those which are undesignated heritage assets.
- 10.18 Paragraph 209 provides that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 10.19 The Crooked House Public House was noted on the Historic Environment Record for Staffordshire. Given this the loss of the building, with no planned replacement, significant weight should be given to the loss of this heritage asset. Paragraph 210 of the NPPF Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
- 10.20 As such the loss of the heritage asset is considered to be contrary to policy EQ3 of the Core Strategy as well as the NPPF.

11. LA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND F- The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

11.1 As previously stated, it is the council's primary case that the fire and flattening of the Crooked House was an act of demolition requiring permission. The steps required to comply with the requirements of the notice are reasonable and necessary in order to rebuild the Crooked House resulting in a building with the character and appearance of the original building.

11.2 The Appellant's Ground F) raises two arguments. The first is that the steps are excessive because they require the Crooked House to be returned to its state before the fire. But this links back to their overarching argument that the breach of planning control was only the bulldozing of the shell. This is incorrect, the breach of planning control was the demolition of the Crooked House through the act of development being the fire and subsequent bulldozing of the shell. The steps are not excessive to remedy that breach – and it is unclear if the Appellant would dispute this if that were the correct breach.

11.3 The Appellant's second argument is that they wish to re-build the pub in a relocated location. However, this is not relevant to Ground F) and the Inspector would have no power to vary the steps to allow this given it falls outside of the breach of planning control. It is believed this point was accepted by the Appellant at the CMC.

12. LA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND G- The time given to comply with the notice is too short.

12.1 The council accepts that the rebuild of such a building will require the input from a number of building specialists and time is required to carry this out.

12.2 Having taken the above into consideration, the Council considers that three years to rebuild the Crooked House is sufficient time for the steps listed in the Notice to be complied with.

13. CONCLUSION

13.1 The breach of planning control was the demolition of the Crooked House through the fire and subsequent bulldozing of the burnt-out shell of the Building. A significant amount of the Appellant's case seems predicated on artificially separating out elements of the demolition when the proper approach is to consider the end result i.e the demolition of the building. The correct breach of planning control was the demolition of the Building rather than simply the bulldozing of the burnt-out shell.

13.2 If the Council is correct on the breach of planning control, then the majority of the Appellant's Grounds fall away.

13.3 Under Ground B) it cannot be factually denied that the Building has been demolished.

13.4 Under Ground C) the demolition of the Building was an act of development under section 55 of the Town and Country Planning Act which required planning permission from the Local Planning Authority. The Council did not give or imply permission to demolish the Building but nor would such verbal permission be able to exclude the requirement to gain permission for development under the planning regime.

13.5 Under Ground A), the Appellant accepts that if the breach of planning control is the demolition of the Building then the development subject of the appeal should not be granted planning permission. The demolition of the Crooked House has resulted in the loss of a historic community facility and heritage asset and it is right that the Appellant does not attempt to argue that such a demolition would be justified in planning terms.

13.6 Under Ground F) it is appropriate to require the Crooked House to be re-built given the breach of planning control was its unlawful demolition.

- 13.7 Under Ground G) three years to rebuild the Crooked House is sufficient time for the steps listed in the Notice to be complied with.
- 13.8 For those reasons the Council request that the Appeal be dismissed and the EN upheld.

APPENDIX 1

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

PLANNING CONTRAVENTION NOTICE

ISSUED BY: South Staffordshire District Council

TO: Mr Adam Taylor
ATE Farms Limited,
Moorburns Lane,
Lutterworth
LE17 4JD

1. THIS NOTICE is served by the Council because it appears to it that there may have been a breach of planning control within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council requires you, in exercise of its powers under Section 171C(2) and (3), so far as you are able, to provide certain information about interests in, and activities, on the land.

2. THE LAND TO WHICH THE NOTICE RELATES

Land and Buildings known as Crooked House, Crooked House Lane, Dudley, DY3 4DA,, shown edged red on the attached plan ("the Land").

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the demolition of buildings on the Land falling within Class A4 (drinking establishments).

4. WHAT YOU ARE REQUIRED TO DO

Provide in writing the following information:

- a) Your full name (including any middle names), and full address of the property at which you currently reside.

George Adam Taylor (known as Adam Taylor)

[REDACTED ADDRESS]

b) State what interest you have in the Land; and the name and postal address of any persons known to you to have an interest in the land (include all owners, mortgagees, charges, lessees, licensees and any other person(s) with a right to the use of this land for any purpose).

Shareholder in ATE Farms Ltd. which is the company that owns the land and buildings
known as Crooked House

c) Please provide any information and copies of all documents you hold relating to 4 b) above that may assist the Council in understanding who has an interest in the Land.

N/A

d) Provide the name and any postal address and any contact details of any person known to you who, was involved in the works to the buildings on the Land on the 7th August 2023 and in particular specify:

- who authorised the works?
- who carried out the works?

- who owned the machinery that carried out the work?
- who was in charge of the Site, who was on Site and who was otherwise involved in carrying out the works or causing or allowing the works to take place?

Point 1 Adam Taylor on behalf of;

Point 2 AT Contracting & Plant Hire Ltd.

Point 3 Linden Thomas Plant Hire Ltd.

Point 4 AT Contracting & Plant Hire Ltd.

e) Please provide any information and copies of all documents you hold relating to the information required in 4d) above.

None available

f) Did you have a schedule of works for the removal of the sections of wall, that had been agreed with South Staffordshire Council that were to be removed, in order to make the building safe, as indicated on Appendix 1 attached to this Notice? If the answer to this question is 'yes', please provide any schedule of works associated with the work carried out on the buildings on the Land on Monday 7th August 2023.

The schedule of work was discussed verbally. Appendix 1 was not available at the time.

g) What section of the building was taken down first during the work undertaken on Monday 7th August 2023?

The section of side walls on the first floor.

h) Please provide any plans, brochures, and/or surveys (structural or otherwise) of the Buildings prior to demolition that you hold. This includes any of those documents which were part of, or prepared as part of, the 2023 sale/purchase of the Buildings such as sale particulars you were provided with when purchasing the Crooked House Pub.

Please see enclosed copy of Sale details

- i) When was the machinery brought on to site that was used as part of the work to the buildings on the Land that took place on Monday 7th August 2023?

Monday 7th August.

- j) Please explain why you consider that planning permission was not required for the works carried out to the Buildings on the Land that occurred and give any information including documents that you hold to assist the Council in understanding why you consider the works were authorised?

Please refer to attached Supporting Statement.

Time within which the information must be provided: within twenty-one days beginning with the day on which this notice is served on you (notice served 18 August 2023).

5. OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO THE NOTICE

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council will consider them before the 21-day deadline (8 September 2023). If you wish to make representations, you will need to contact the officer dealing with the case (contact details of the officer can be found on the covering letter).

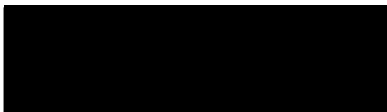
6. WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice within twenty-one days beginning with the day on which it was served on you. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.

It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular. The maximum penalty on conviction of this offence is a fine of £5,000.

Please sign below to confirm you have read and understood the warning of Section 6.

SIGNATURE



DATE

7-9-2023

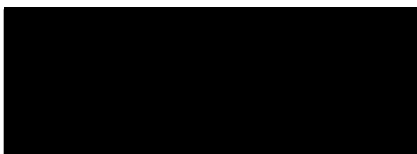
7. ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serves a stop notice, and/or one or more temporary stop notices under sections 183 and 171E respectively of the 1990 Act, section 186(5)(b) of the 1990 Act provides that you should otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Date: 17 August 2023

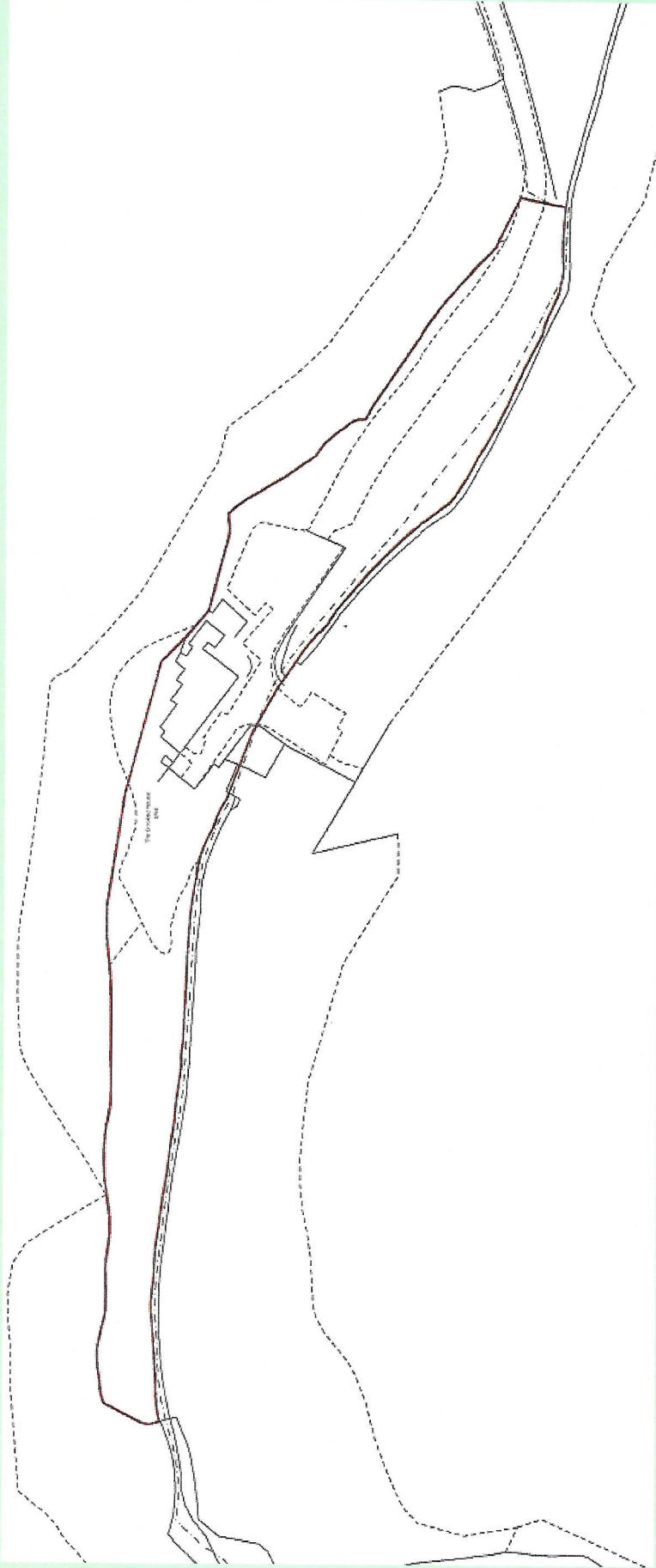
Signed:



Annette Roberts

Corporate Director of Place and Communities

Crooked House, Crooked House Lane, Dudley, DY3 4DA



PLANNING ENFORCEMENT REFERENCE: 23/00199/UNDEV

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SCALE: 1:1250

APPENDIX 1

Areas of front façade to be demolished for safety reasons outlined in red as approved by South Staffordshire District Council.



Planning Contravention Notice Section 4 (j)
Supporting Statement - Crooked House, Crooked House Lane, Dudley, DY3 4DA

This Supporting Statement addresses Section 4 (j) of the Planning Contravention Notice which reads *'Please explain why you consider that planning permission was not required for the works carried out to the Buildings on the Land that occurred and give any information including documents that you hold to assist the Council in understanding why you consider the works were authorised?'*

Historic background information is relevant in as much as it was known that there had been a death resulting from unauthorised access to the quarry (adjacent to the Crooked House site) in 2012. The local area is known for ongoing and active antisocial behaviour and Mr Taylor was also aware of this. Clearly, any fire damaged building was highly likely to similarly suffer unauthorised access and pose a significant risk to public safety.

Following the fire, some process of making the building safe had to be undertaken and this was mutually agreed by representatives from the Council which is detailed here.

The schedule of work was discussed with officers from Planning Control on Sunday 6th August.

This was then confirmed (again verbally) with a Building Inspector on the Monday morning (7th August) who agreed that the work to make the building safe was necessary.

Therefore, work to make the building safe commenced in the afternoon of Monday 7th August. The schedule of work was verbal with Planning Officers and Building Inspectors. There was agreement for the removal of the unsafe sections of the upper walls, and overall to make the site safe in the event of unauthorised public access. The photographic information provided as Appendix 1 was not available at the time. Hence, all discussions were verbal and to the effect that any necessary works to make the site safe were essential. Council Officers left the site at approximately 14.30hrs.

Removal of the upper sections of the wall as indicated in Appendix 1 rendered both of the gable ends to be unsupported by the side walls. Thus, they were also then unsafe. Therefore, subsequent reduction of the upper gable ends was considered as essential work on the grounds of safety. By reducing the gable ends, the window arches on the lower floor were damaged/broken making the lower wall loosened in sections between windows. Furthermore, the iron framework (on the first floor level) that was historically installed to hold the walls and brickwork together was also loosened. Thus, the lower walls were unsupported and themselves became unsafe.

The degree of safety and the consideration of risk assessment to the public should be put in context with other events taking place at the time. Notably, very active social media communications as well as the public visiting the site (unauthorised) that clearly demonstrated a strong local opinion. In these circumstances, standard safety fencing was not considered an adequate barrier, hence the need to be sure that all walls were made entirely safe at that time.

In conclusion, the reduction of all of the building walls was not the intended action at the start of Monday 7th August. However, as the process to make the site safe commenced, the piecemeal removal of the upper walls was not a practical solution and the site remained an obvious risk to public safety. Without the presence of Council representatives during the process that afternoon, the work to make the site safe had to be undertaken as a matter of utmost urgency.

Final removal of the walls was completed (after the initial work on the 7th August) by the salvaging of the bricks for safekeeping as agreed with the Council. Thus, the removal of any residual lower walling within the brick mound was undertaken at that time and with the agreement of the Council. This was necessary due to the level of theft and ongoing unauthorised public access in the days/weeks following the fire.

CROOKED HOUSE

Himley Road, Himley, Dudley, DY3 4DA

REFERENCE NUMBER: 5854391

TENURE: Freehold

GUIDE PRICE: £675,000

CONTACT DETAILS

All arrangements to view the property must be made through the agent

NEIL COMLEY

T: 07860 189 704 | E: neil.comley@christie.com

LOCATION

The Crooked House is located just off the B4176 between Telford and Dudley, close to the Himley. The town of Wombourne is situated approximately four miles to the north, and Dudley is three and a half miles to the east.

PROPERTY DESCRIPTION

The Crooked House was built in 1765 originally as a farmhouse. During the 19th century the pub began to sink as a result of mining subsidence, before Wolverhampton & Dudley Breweries bought it and made it structurally safe in the 1940's, naming it the Crooked House based its appearance. The pub has three trading areas including a separate restaurant (50). Externally there is car parking to the front with 20 spaces, a kids play area, beer garden and allotments to the rear.

OCCUPATIONAL FORMAT

Pillar TAW

RATEABLE VALUE (2023 LIST)

£18,250

TRADING HOURS

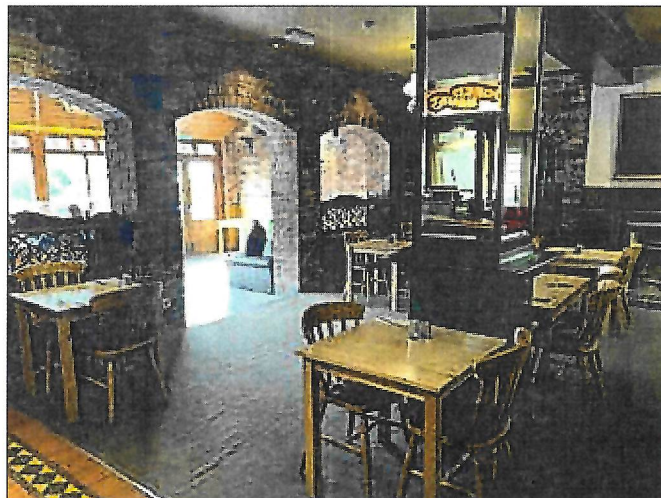
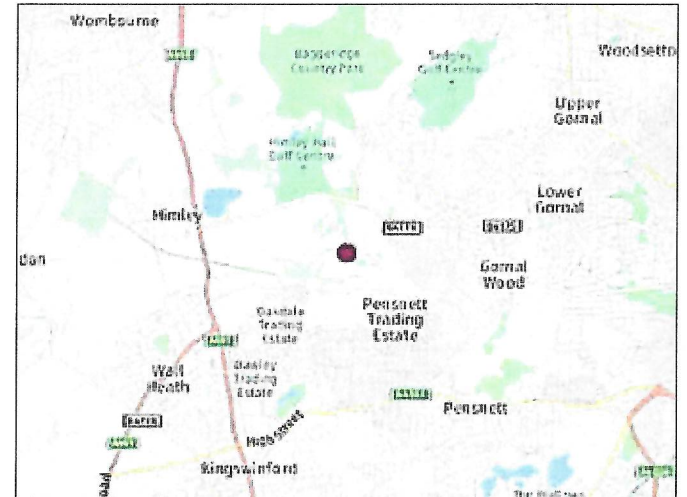
Sun - Thur 12:00-20:30, Fri & Sat 12:00-23:00

EPC

Grade D

SITE AREA (ACRES)

N/A*



APPENDIX 2

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

PLANNING CONTRAVENTION NOTICE

ISSUED BY: South Staffordshire District Council

TO: Carly Taylor
ATE Farms Limited
Colinton House,
Leicester Road,
Bedworth,
Warwickshire,
CV12 8AB

1. THIS NOTICE is served by the Council because it appears to it that there may have been a breach of planning control within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council requires you, in exercise of its powers under Section 171C(2) and (3), so far as you are able, to provide certain information about interests in, and activities, on the land.

2. THE LAND TO WHICH THE NOTICE RELATES

Land and Buildings known as Crooked House, Crooked House Lane, Dudley, DY3 4DA,, shown edged red on the attached plan ("the Land").

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

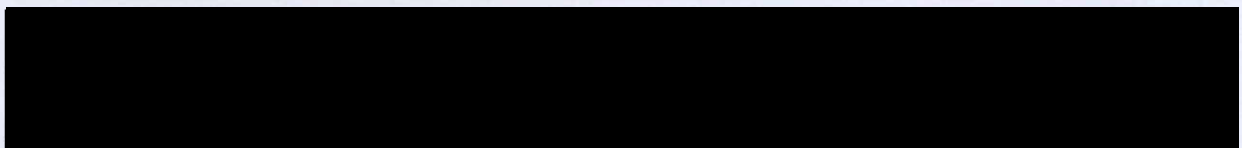
Without planning permission, the demolition of buildings on the Land falling within Class A4 (drinking establishments).

4. WHAT YOU ARE REQUIRED TO DO

Provide in writing the following information:

- a) Your full name (including any middle names), and full address of the property at which you currently reside.

Carly Taylor



b) State what interest you have in the Land; and the name and postal address of any persons known to you to have an interest in the land (include all owners, mortgagees, charges, lessees, licensees and any other person(s) with a right to the use of this land for any purpose).

Shareholder in ATE Farms Ltd. which is the company that owns the land and buildings
known as Crooked House

c) Please provide any information and copies of all documents you hold relating to 4 b) above that may assist the Council in understanding who has an interest in the Land.

N/A

d) Provide the name and any postal address and any contact details of any person known to you who, was involved in the works to the buildings on the Land on the 7th August 2023 and in particular specify:

- who authorised the works?
- who carried out the works?

- who owned the machinery that carried out the work?
- who was in charge of the Site, who was on Site and who was otherwise involved in carrying out the works or causing or allowing the works to take place?

Point 1 Adam Taylor on behalf of;

Point 2 AT Contracting & Plant Hire Ltd.

Point 3 Linden Thomas Plant Hire Ltd.

Point 4 AT Contracting & Plant Hire Ltd.

e) Please provide any information and copies of all documents you hold relating to the information required in 4d) above.

None available

f) Did you have a schedule of works for the removal of the sections of wall, that had been agreed with South Staffordshire Council that were to be removed, in order to make the building safe, as indicated on Appendix 1 attached to this Notice? If the answer to this question is 'yes', please provide any schedule of works associated with the work carried out on the buildings on the Land on Monday 7th August 2023.

The schedule of work was discussed verbally. Appendix 1 was not available at the time.

g) What section of the building was taken down first during the work undertaken on Monday 7th August 2023?

The section of side walls on the first floor.

h) Please provide any plans, brochures, and/or surveys (structural or otherwise) of the Buildings prior to demolition that you hold. This includes any of those documents which were part of, or prepared as part of, the 2023 sale/purchase of the Buildings such as sale particulars you were provided with when purchasing the Crooked House Pub.

Please see enclosed copy of Sale details

i) When was the machinery brought on to site that was used as part of the work to the buildings on the Land that took place on Monday 7th August 2023?

Monday 7th August.

j) Please explain why you consider that planning permission was not required for the works carried out to the Buildings on the Land that occurred and give any information including documents that you hold to assist the Council in understanding why you consider the works were authorised?

Please refer to the Supporting Statement attached to the PCN form completed by Adam Taylor and submitted 07-09-23.

Time within which the information must be provided: within twenty-one days beginning with the day on which this notice is served on you (notice served 18 August 2023).

5. OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO THE NOTICE

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council will consider them before the 21-day deadline (8 September 2023). If you wish to make representations, you will need to contact the officer dealing with the case (contact details of the officer can be found on the covering letter).

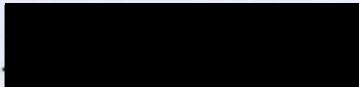
6. WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice within twenty-one days beginning with the day on which it was served on you. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.

It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular. The maximum penalty on conviction of this offence is a fine of £5,000.

Please sign below to confirm you have read and understood the warning of Section 6.

SIGNATURE ...



DATE 25.09.23

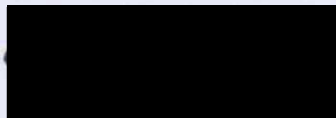
7. ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serves a stop notice, and/or one or more temporary stop notices under sections 183 and 171E respectively of the 1990 Act, section 186(5)(b) of the 1990 Act provides that you should otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Date: 17 August 2023

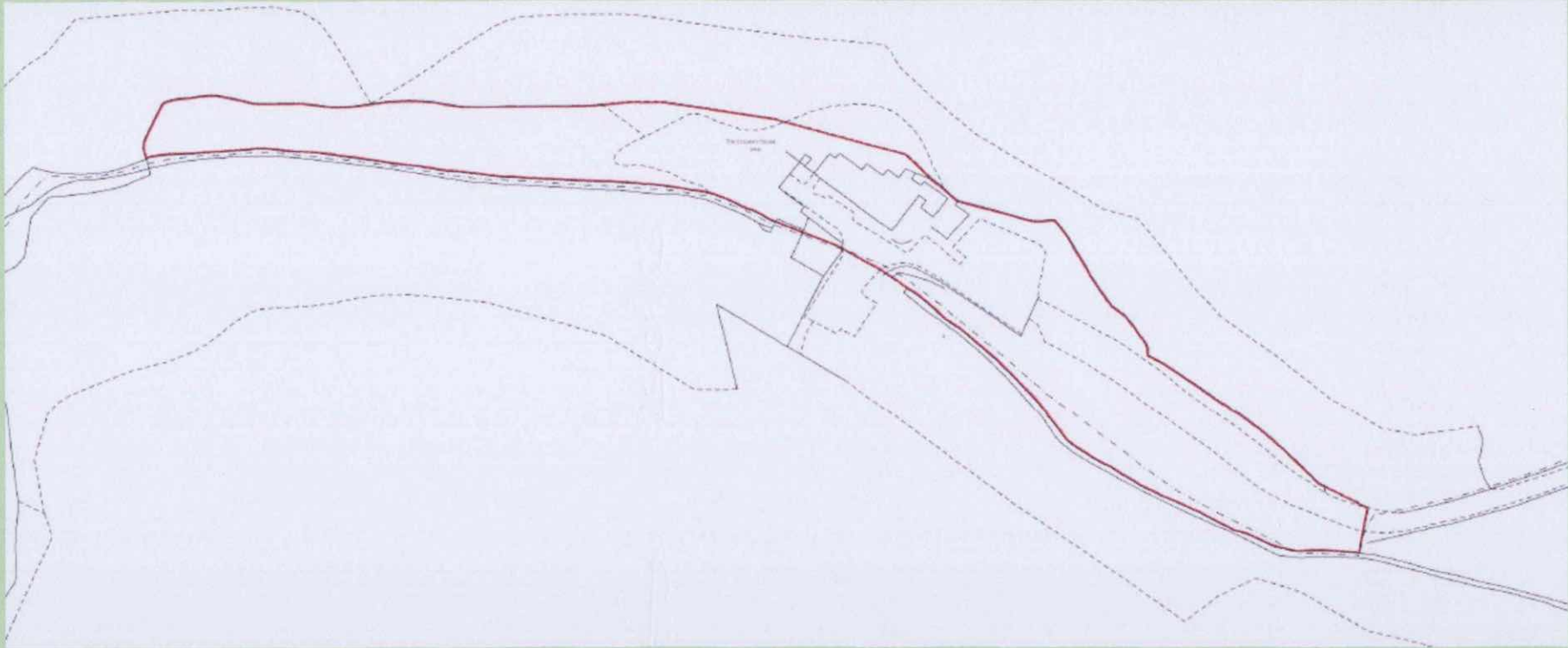
Signed:



Annette Roberts

Corporate Director of Place and Communities

Crooked House, Crooked House Lane, Dudley, DY3 4DA



PLANNING ENFORCEMENT REFERENCE: 23/00199/UNDEV

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SCALE: 1:1250

Page 7 of 8

APPENDIX 1

Areas of front façade to be demolished for safety reasons outlined in red as approved by South Staffordshire District Council.



APPENDIX 3

Responses to questions raised by Catherine Gutteridge in her email of the 13th November 2023

Each question has been copied from the email, followed by the answer.

Question 1

'Further information is required relating to question 4 f of the Planning Contravention Notice (copy of the completed PCN attached for your reference). Who was your representative on site who spoke to the Council representatives on 7th August 2023 and what was the schedule of work that was agreed on site?'

Answer to question 1 - The site representative was Ethan Taylor. The agreed schedule of work was to make the site safe.

Question 2

'How was the schedule of works that were agreed on site by your representative and the representative from the Council (Phil Hanson from Building Control) conveyed to you?'

Answer to question 2 - By phone from Ethan Taylor and the Council representative.

Question 3

'Did any of your representatives or persons instructed by you have any formal structural qualifications to enable them to assess structural integrity of the building after the fire had taken place?'

Answer to question 3 - No, they used common sense, evaluated the situation on the ground including taking into account of the significant (adverse) public presence.

Question 4

'Did you attend the site at any point to assess the condition of the building after the fire?'

Answer to question 4 - No.

Question 5

'Why were the two horizontal structural steel frames removed from the building when this had not been agreed with the Council?'

Answer to question 5 – Nothing was agreed with the Council as to what could or could not be finally removed from site. As stated under my answer to question 1, the overall instruction was to make the site safe. Removal was required given the circumstances which developed at the time based on safety reasons. Not only that, the steel structure was fixed to the unsafe wall, so it all had to be removed.

Question 6

'Why was the Council not consulted after the three agreed sections of front wall were removed at first floor level, to discuss further proposed demolition and establish if the Council would agree to further demolition taking place beyond that agreed with the Council on site on 7th August 2023?'

Answer to question 6 - The Council did not ask to be kept informed of work taking place on site.

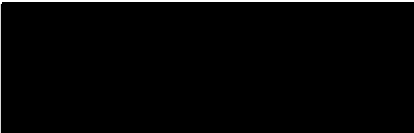
Question 7

'What steps were taken by you or your representative to ensure that only minimum necessary demolition of the buildings took place to ensure public safety?'

Answer to question 7 - Consideration was taken at all stages to ensure the building integrity and safety. Thus, the removal of the upper walls then led to other concerns and so forth.

Signed

Date



20-11-2023

Mr Adam Taylor