

Case Name: *ATE Farms Limited v The Secretary of State for Housing, Communities and Local Government and Staffordshire District Council [2025] EWHC 347 (Admin)*

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Commentary: ATE Farms Limited sought permission to appeal under s.289 of the Town and Country Planning Act 1990 ("the TCPA") from the decision of the first respondent's appointed inspector on 17 January 2025 refusing the appellant's applicant for the postponement of a local inquiry into the appellant's appeal against an enforcement notice issued by the second respondent.

The enforcement notice under issue was served on the appellant as the freehold owner of the land to which the notice related, Crooked House, Crooked House Lane in Dudley. The Crooked House was previously a well-known pub with a distinctive appearance but closed in July 2023 apparently following a burglary which caused considerable damage. The appellant purchased the land later that month. On 5 August 2023, the Crooked House caught fire, the circumstances of which are currently the subject of a criminal investigation. The appellant sought to postpone the commencement of the inquiry until after that investigation had concluded.

Mould J allowed the appeal on the basis that it would be impossible for the appeal to proceed until the criminal investigation had concluded, remitting the matter to the inspector for redetermination as to whether to begin the inquiry and, if so, on what basis.

The facts

On 7 August 2023, the fire-damaged pub was demolished by contractors acting on the instruction of the appellant, who claimed that the demolition works were initially agreed to by the Council, but that they led to an urgent risk of collapse and justified the immediate demolition of the remaining structure. The Council's enforcement notice, issued on 27 February 2024, alleged that the Crooked House was demolished without planning permission, which was a breach of planning control, and required the appellant to rebuild the pub 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.' The appellant then lodged an appeal against the enforcement notice under s.174(2) of the TCPA, proceeding on grounds (a), (b), (c), (f) and (g) of that subsection.

What followed was an extended exchange of correspondence and submissions between the parties regarding the appropriate start date for the inquiry, if it was necessary to postpone it until the conclusion of the police investigation into the fire, if responsibility for the fire was salient to the grounds of appeal, and if fire could count as demolition for the purposes of development control. On 17 January 2025, the inspector issued his final ruling on those questions: the inquiry was to go ahead as scheduled, without any delay

to allow the fire investigation to conclude. The 'primary purpose' of the inquiry was to hear evidence on grounds (a) and (g), while evidence for (b), (c) and (f) would be taken as written submissions.

The grounds of challenge

The appellant challenged the inspector's decision on five grounds, but ground 1 was sufficient for the Court to determine the appeal in the appellant's favour. The appellant contended that the inspector had misdirected himself as to the relevance of the cause of the fire to the determination of the ground (a) appeal, namely whether he was satisfied that the Crooked House was destroyed, wholly or in part, from an act of operational development, as the enforcement notice was intended to capture the destruction caused by the fire, as well as the subsequent demolition.

Counsel for the appellant submitted that ground (a) was inescapably dependant upon: (1) a finding of fact based on evidence as to whether the appellant or its agents were responsible for the fire; and (2) an evaluation of the proportionality of insisting on reinstating the Crooked House at substantial cost. In response, the first and second respondents argued that this complaint was premature and misunderstood the inspector's proposed procedure. If the inspector found necessary to determine the cause of the fire in order to decide the enforcement appeal, that question would be the subject of further submissions and evidence. In addition, the inspector was entitled to and correct to contemplate that it may not be necessary for him to consider and to make a decision as to the cause of the fire in order to determine the enforcement appeal whether on ground (a) or overall.

Conclusion

The Court held that it was impossible that the Inspector would not need to hear evidence about, or make a finding as to, the cause of the fire in deciding the ground (a) appeal. It was 'fanciful' to suggest that the inspector could avoid factual questions as to whether the fire was caused by human agency, or if the person who started the fire was connected to the appellant. Whether the appellants caused the fire was, at the very least, arguably a material consideration to the determination of appeal ground (a), and necessary to establish the true factual matrix against which to determine whether retrospective planning permission for the pub's demolition was merited.

For these reasons, the appeal was allowed on Ground 1. The other grounds of challenge largely overlapped with, or added little of substance to, Ground 1 and were dealt with briefly by the Court. The matter was remitted to the inspector for redetermination.