

Debate Pack

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By Felicia Rankl,
Abbas Panjwani

Heritage pubs

1	Heritage assets	3
1.1	Designated heritage assets: Listed buildings	3
1.2	Non-designated heritage assets	5
1.3	Identifying heritage pubs	6
2	Pubs: Statistics and protections	7
2.1	Fall in the number of pubs	7
2.2	Planning requirements to change the use of a pub or demolish a pub	7
2.3	Unauthorised demolitions	9
2.4	Pubs at risk of demolition	10
3	Press and parliamentary material	12
3.1	Press	12
3.2	Debates	12

Summary

A Westminster Hall debate has been scheduled for Thursday 16 November 2023 on heritage pubs. The debate will be opened by Marco Longhi MP.

Planning and heritage are devolved matters; and this debate pack focuses on England (although it makes some comparisons to relevant policies in Wales).

There is no statutory definition of heritage pubs. Heritage pubs may be designated or non-designated heritage assets:

- Designated heritage assets, such as listed buildings, are subject to statutory protections.
- Non-designated assets have “[a degree of heritage significance meriting consideration in planning decisions](#)” but do not meet listing criteria.

The main test for whether a building should be listed is its special historic or architectural interest. An application needs to be made to Historic England, and the final decision rests with the Secretary of State for Culture, Media and Sports.

Since May 2017, [planning permission from the local planning authority is required to change the use of, or demolish, a pub](#). The government advises local planning authorities to consider the importance of [retaining “accessible local services and community facilities”](#), such as pubs, and the heritage significance of pubs (where applicable) when deciding these applications.

If the pub is a listed building, then [listed building consent](#) is also required. Local planning authorities may have to consult or notify Historic England before they decide these applications. It is a criminal offence to demolish a listed building without obtaining listed building consent.

While many pub closures and conversions are carried out lawfully, there is concern some are carried out without the correct permission. In August 2023, the Campaign for Real Ale wrote to then Housing Minister Rachel Maclean claiming that, in the first half of 2023, [64 pubs were converted or demolished in England without planning permission](#).

For example, the Crooked House pub in the West Midlands was destroyed in a fire shortly after it was sold. Concerns have been raised that [the pub was demolished without the correct permission](#). The local planning authority, South Staffordshire Council, has said it is [investigating “planning and building control breaches”](#).

Concern about the protection of pubs comes against the backdrop of a significant fall in numbers of them. Data from the Office for National Statistics puts shows [the number of pubs has declined by around 13,000 between 2000 and 2019](#). It shows that, in particular, the number of smaller pubs (with fewer than 10 employees) has declined.

1 Heritage assets

There is no statutory definition of heritage pubs. Heritage pubs may be designated or non-designated heritage assets:

- Designated heritage assets include listed buildings. They are subject to specific protections, for example, under the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#).
- Non-designated heritage assets. These are buildings or sites that have “a degree of heritage significance meriting consideration in planning decisions” but do not meet the criteria for designated heritage assets.¹

1.1 Designated heritage assets: Listed buildings

Listing process

To apply for a heritage pub to become a listed building, an application must be made to Historic England, (the public body that champions and protects England’s historic environment). Historic England will assess the application and make a recommendation to the Secretary of State (for Culture, Media and Sport). The Secretary of State is ultimately responsible for making a decision whether to list a building.²

The main test for whether a building should be listed is its special historic or architectural interest. It is for Historic England and the Secretary of State to decide how they apply that test to a particular building to determine whether it should be a listed building. For further information, see:

- The government’s [principles of selection for listed buildings](#) (last updated November 2018) which sets out how the test is applied to applications.
- Historic England’s [listing selection guide for commerce and exchange buildings](#) (last updated December 2017) which sets out how the listing criteria are applied to pubs.

Protections for listed buildings

To undertake works on a listed building that could affect its character as a building of special architectural or historic interest, listed building consent from the local planning authority (LPA) is required. If the works constitute

¹ Department for Levelling Up, Housing and Communities (DLUHC) and Ministry for Housing, Local Government and Communities (MHCLG), [Historic environment](#), last updated July 2019, para 39

² Historic England, [How To Get Historic Buildings or Sites Protected Through Listing](#), accessed 15 November 2023

development under [section 55 of the Town and Country Planning Act 1990](#), planning permission from the LPA is also required.³

It is a criminal offence to demolish a listed building, or to alter or extend it in a manner that would affect its character as a building of special architectural or historic interest, without obtaining listed building consent from the LPA.⁴

An LPA may be required to notify or consult Historic England if they receive applications for listed building consent or planning applications for works on listed buildings. The circumstances for when an LPA must notify or consult Historic England are set out in [tables 1 and 2 in government guidance on the historic environment](#) (last updated July 2019).

Upkeep of listed buildings

There is no direct legal obligation on the owners of designated heritage assets, such as listed buildings, to maintain their property to a certain standard or to ensure the upkeep of their property.

Where the preservation of a listed building is at risk, however, a local authority has discretionary powers. For example, a local authority can:

- issue a ‘repairs notice’ requiring the owner of a listed building to ensure its proper preservation.⁵
- execute any works that are “urgently necessary” to ensure the preservation of a listed building, if the building is unoccupied.⁶

[Section 104 of the Levelling Up and Regeneration Act 2023](#) contains provisions to allow local authorities to carry out urgent works on listed buildings that are occupied and in use. These provisions already exist in Wales and are now extended to England.⁷ These provisions are not yet in force; they require regulations to be take effect.⁸

It is up to the local authority whether they use these powers; constituents cannot force a local authority to make use of these powers where they believe the preservation of a listed building is at risk.

For further information about the powers a local authority has to ensure the upkeep of a listed building in its area, see:

³ [Section 55 of the Town and Country Planning Act 1990](#)

⁴ [Section 9 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

⁵ [Section 48 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

⁶ [Section 54 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

⁷ [Section 104 of the Levelling Up and Regeneration Act 2023; Historic Environment \(Wales\) Act 2016](#)

⁸ [Section 255 of the Levelling Up and Regeneration Act 2023](#)

- Department for Culture, Media and Sports, [The upkeep and repair of historic buildings](#), March 2022
- Historic England, [Heritage at Risk Legislation](#), accessed 13 November 2023

1.2

Non-designated heritage assets

Non-designated heritage assets are buildings or sites that have “a degree of heritage significance meriting consideration in planning decisions” but do not meet the criteria for designated heritage assets.⁹

Non-designated heritage assets do not have the same statutory protections as designated heritage assets. However, the government’s National Planning Policy Framework (NPPF) encourages local planning authorities to consider “the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation”.¹⁰

There are number of ways non-designated heritage assets can be recorded. For example, local planning authorities can keep local lists of non-designated heritage assets and include information on them in their historic environment record. For further information, see:

- Historic England, [Local Heritage Listing: Identifying and Conserving Local Heritage](#),
- Historic England, [Local Listing](#)
- Historic England, [Historic Environment Records \(HERs\)](#), accessed 13 November 2023

Assets of community value

A heritage pub can also be nominated by a parish council or a group with a connection to the local community to become an “asset of community value”. The parish council or community group must show that the pub has recently been used and could be expected to be used in the near future to “further the social wellbeing or social interests of the local community”.¹¹

If a pub becomes an asset of community value, then the parish council or community group can make a bid to buy the property if it is sold. There is no requirement on the owner to sell the property. For further information, see:

⁹ DLUHC and MHCLG, [Historic environment](#), last updated July 2019, para 39

¹⁰ DLUHC, [National Planning Policy Framework](#) (NPPF), last updated September 2023, para 197

¹¹ [Section 88 of the Localism Act 2011](#)

- Historic England, [Heritage at Risk Legislation: Community Right to Bid for Assets](#), accessed 13 November 2023
- House of Commons Library, [Assets of community value](#), March 2022

1.3

Identifying heritage pubs

Heritage pubs that are listed buildings can be found on Historic England's [National Heritage List for England](#). Historic England has published a (non-exhaustive) list of [eleven historic pubs that are listed buildings](#) (June 2022).

Historic England also publishes [research on England's historic pubs](#).

CAMRA (the Campaign for Real Ale) has also published [a \(non-exhaustive\) list of pubs with historic interiors](#) (accessed 15 November 2023).

2 Pubs: Statistics and protections

2.1 Fall in the number of pubs

Concern about the protection of pubs comes against the backdrop of a significant fall in numbers.

Data collected by the British Beer and Pub Association shows a steady decline, from around 61,000 in 2000 to 46,000 in 2022.¹²

Data from the Office for National Statistics puts the fall at around 13,000 between 2000 and 2019, with most of that fall between 2007 and 2013.

It also shows that while the number of smaller pubs (with fewer than 10 employees) has declined, the number of larger pubs has increased.

For example, in 2001, there were approximately 2,600 pubs with 25 or more employees. By 2019 there were approximately 4,600.¹³

2.2 Planning requirements to change the use of a pub or demolish a pub

Planning permission from the local planning authority (LPA) is required to change the use of, or demolish, a pub.

Changes to planning law in 2017 and 2020

Depending on their use, buildings fall into different “use classes” (set out in the [Use Classes Order 1987](#)). For example, there are separate use classes for shops and dwellinghouses. Uses can also be “sui generis”, which means that they constitute a class of their own.¹⁴

Changing the use of a building between “use classes” or from a use class to an “sui generis” use would usually require planning permission from the LPA. Changing the use of a building within a use class and changes covered by ‘permitted development rights’ would not require planning permission.¹⁵

¹² British Beer and Pub Association, [Pubs and breweries in numbers](#), accessed 14 November 2023

¹³ Office for National Statistics (ONS), [Public houses and bars by size, region and nation, UK, 2001 to 2019](#), 16 January 2020 [accessed 15 November 2023]

¹⁴ Planning Portal, [Use Classes - Change of use](#), undated [accessed 15 November 2023]

¹⁵ [Town and Country Planning \(Use Classes\) Order 1987](#); [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#)

Until 2020, pubs (and other drinking establishments) were part of use class A4. In 2020, the government designated them as a “sui generis” use.¹⁶ This means that planning permission from the LPA is always required for a change of use to or from a pub.

Even prior to 2020, pubs were protected from permitted development rights that allow the uses of certain other buildings to be changed (for example, from offices to homes) and other types of buildings to be demolished without planning permission from the LPA. In May 2017, the government removed permitted development rights that previously allowed pubs to be demolished or changed to a shop or restaurant or café without planning permission.¹⁷

If planning permission is required

The removal of permitted development rights does not mean that it is not possible to change the use of, or demolish, a pub – just that planning permission from the LPA is first required to do so. If the pub is a listed building, listed building consent from the LPA is also required.

The LPA will decide the planning application in line with its local plan (a document setting out its plans and policies for the development of an area) unless “material considerations” indicate otherwise.¹⁸ There is no set list of material considerations, however, the government’s [National Planning Policy Framework](#) (NPPF) is one important material consideration.

The NPPF sets out that “planning policies and decisions should enable [...] the retention and development of accessible local services and community facilities, such as [...] public houses”.¹⁹

If planning permission is not obtained

Failure to obtain planning permission where it is required – for example, failing to obtain planning permission to change the use of, or demolish, a pub – is considered “a breach in planning control”.²⁰ An LPA can take enforcement action against suspected and reported planning breaches.

LPAs have a range of enforcement tools at their disposal; these are set out in government guidance on [enforcement and post-permission matters](#) (last updated July 2019). For example, an LPA can issue:

- a temporary stop notice to require a property owner or developer to stop any activity that potentially constitutes a planning breach while the LPA

¹⁶ [Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020](#)

¹⁷ [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2017](#)

¹⁸ [Section 70 of the Town and Country Planning Act 1990](#)

¹⁹ DLUHC, [National Planning Policy Framework](#) (NPPF), last updated September 2023

²⁰ [Section 171A of the Town and Country Planning Act 1990](#)

considers whether to take further action. The LPA can also issue a stop notice which is the same effect once it has taken enforcement action.

- enforcement notices to require a property owner or developer to take certain steps to remedy a breach in planning control.²¹ For example, in 2015, Westminster City Council issued an enforcement notice requiring Carlton Tavern in London to be rebuilt, after the pub was demolished without planning permission.²²

It is up to the LPA whether they use pursue enforcement action against suspected or reported planning breaches and what type of enforcement action to take; constituents cannot force an LPA to act.

Time limits on enforcement action

There are time limits on enforcement action: it must be taken within four years in relation to most development (for example, demolitions) and within ten years in relation to changes of use.²³ [Section 115 of the Levelling Up and Regeneration Act 2023](#) contains provisions to extend the time period for enforcement action to ten years for all breaches in planning control.²⁴ These provisions are not yet in force; they require regulations to be take effect.²⁵

Failure to comply with notices

While carrying out development without planning permission is usually not an offence, failure to comply with enforcement notices, temporary stop notices or stop notices is a criminal offence. Prosecution can be brought in court for the offence of contravening these notices. If convicted, a person found guilty of failing to comply with these notices may face a fine.²⁶

2.3

Unauthorised demolitions

While many pub closures and conversions are carried out lawfully, there is concern some are carried out without the correct permission.

In August 2023, the Campaign for Real Ale wrote to then Housing Minister Rachel Maclean claiming that, in the first half of 2023, 64 pubs in England were converted or demolished without planning permission.²⁷

²¹ [Part 7 of the Town and Country Planning Act 1990](#)

²² Westminster City Council, [The Carlton Tavern: Demolition of the building](#) (PDF), May 2015

²³ [Section 171B of the Town and Country Planning Act 1990](#)

²⁴ [Section 115 of the Levelling Up and Regeneration Act 2023](#)

²⁵ [Section 255 of the Levelling Up and Regeneration Act 2023](#)

²⁶ [Part 7 of the Town and Country Planning Act 1990](#)

²⁷ CAMRA (the Campaign for Real Ale), [CAMRA pub closure figures expose 'nationwide scandal' in wake of unauthorised demolition of the Crooked House](#), 10 August 2023

However, it said it was aware of a further 31 conversions or demolitions where it could not find a planning application, and so may have taken place in contravention of planning laws.

This followed the demolition of the Crooked House pub in the West Midlands. A fire destroyed much of the pub shortly after it was sold. South Staffordshire Council said it agreed with the owner to remove part of the first floor, but instead the entire building was demolished without permission.²⁸ The Council has said that it is carrying out an “investigation regarding the planning and building control breaches with the aim of reaching a positive outcome” and working with the police and other bodies, including Historic England.²⁹

In 2015, the Carlton Tavern in north-west London was similarly demolished by its owners, after being denied planning permission to convert it into flats, and days before it was due to be listed.³⁰ The owners were ordered to rebuild the pub which re-opened in 2021.

2.4 Pubs at risk of demolition

There are concerns that pubs have been demolished after applications for listing are submitted or while they are under consideration for listing.³¹ For example, the Guardian reported that Historic England had received a request to list the Crooked House pub shortly before the pub was destroyed by a fire.³²

Building preservation notices

An LPA could use a building preservation notice to protect pubs (and other buildings) that are not listed, but which it believes to be of special historic or architectural interest and thinks could be in danger of demolition. An application to list the building to Historic England must be made at the same time as a building preservation notice is issued.

While a building preservation notice is in force, a building is subject to the same protection as a listed building. This means, in addition to planning permission, any works to the building will require listed building consent.

²⁸ South Staffordshire Council, [Crooked House demolition: Council statement](#), 8 August 2023

²⁹ South Staffordshire Council, [The Crooked House](#), last updated September 2023 [accessed 15 November 2023]

³⁰ [Maida Vale pub rebuilt after demolition serves first indoor drinks](#), BBC News, 18 May 2021 [accessed 15 November 2023]

³¹ [The law that could save our Crooked Houses](#), The Critic, 12 August 2023 [accessed 15 November 2023]; Change.org Petition, [Protect Britain's at risk heritage - enact the interim protection bill](#), last updated September 2023

³² [Yes, rebuild the Crooked House brick by brick - and buttress local planning, too](#), The Guardian, 14 August 2023 [accessed 15 November 2023]

A building preservation notice takes effect immediately and is in force for up to six months or until either the Secretary of State for DCMS lists the building or informs the local authority that they do not intend to list the building.

The building preservation notice expires if the decision (to list or not to list) is not taken within the six-month period. Another building preservation notice cannot be issued for a period of 12 months.³³ For further information, see:

- Historic England, [Identification and Designation: Building Preservation Notices](#), accessed 15 November 2023

Concerns about the effectiveness of protections

Historic England has expressed concern that building preservation notices are “underused”. It has argued that compensation is one of the main barriers discouraging LPAs from using them.³⁴

Currently, under the terms of [section 29 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#), the person who has an interest in the building for which a building preservation notice was served can make a claim to the LPA for compensation for any loss or damage attributable to the effect of the notice.³⁵ [Section 105 of the Levelling Up and Regeneration Act 2023](#) contains provisions to remove the right to compensation.³⁶ These provisions are not yet in force; they require regulations to be take effect.³⁷

Campaigners have called on the UK Government to introduce similar protections for buildings that are under consideration for listing in England as currently exist in Wales.³⁸ Since 2016, under the [Historic Environment \(Wales\) Act 2016](#), buildings automatically have statutory protections in Wales while Welsh ministers make listing decisions.³⁹

³³ [Section 3 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

³⁴ Historic England, [Number 8: Interim Protection](#), February 2019, Historic England, [Building Preservation Notices: An Important Tool in our Interim Protection Armour](#), February 2019

³⁵ [Section 29 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

³⁶ [Section 105 of the Levelling Up and Regeneration Act 2023](#)

³⁷ [Section 255 of the Levelling Up and Regeneration Act 2023](#)

³⁸ [The law that could save our Crooked Houses](#), The Critic, 12 August 2023 [accessed 15 November 2023]; Change.org Petition, [Protect Britain's at risk heritage - enact the interim protection bill](#), last updated September 2023

³⁹ [Historic Environment Act 2016](#); Senedd Research Service, [The Historic Environment Bill: what does it do?](#), last updated May 2021

3 Press and parliamentary material

3.1 Press

- [Camra launch scheme to protect historic pubs](#), BBC News Online, 22 September 2023
- [MP pledges to push for Crooked House law](#), BBC News Online, 16 August 2023
- [Change planning laws to protect historic pub buildings, campaigners say](#), The Guardian, 10 August 2023

3.2 Debates

Westminster Hall debate: [High Street Heritage and Conservation Areas](#)

HC Deb 13 September 2023 | Vol 737 c358WH-

Westminster Hall debate: [Heritage Sites: Sustainability](#)

HC Deb 20 June 2023 | Vol 734 c313WH-

Commons adjournment debate: [Heritage Assets: London](#)

HC Deb 23 March 2023 | Vol 730 c534-

Commons adjournment debate: [Assets of Community Value: Black Horse Pub](#)

HC Deb 2 December 2022 | Vol 723 c1150-

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