



Appeal Decision

Site visit made on 16 February 2021

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 June 2021

Appeal Ref: APP/A4710/F/20/3261456

Land at Rose Bank Road, Todmorden, OL14 7AL

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Harold Inskip against a listed building enforcement notice issued by the Calderdale Metropolitan Borough Council.
 - The listed building enforcement notice was issued on 24 September 2020.
 - The contravention of listed building control alleged in the notice is:
 1. The demolition of a section of curtilage wall to the north east boundary of the grounds of the listed building as shown in Appendix 1.
 2. Construction of breezeblock wall attached/abutting curtilage wall.
 - The requirements of the notice are:
 - (i) Demolish and remove the breezeblock wall from the Land.
 - (ii) Rebuild the section of curtilage wall that has been demolished and restore it to its previous condition before the unauthorised works took place (as shown in Appendix 1).
 - (iii) The rebuilding of the wall as required by step (ii) above shall reuse the original stone blocks and triangulated coping stones removed from the curtilage wall in accordance with image of wall shown in Appendix 1.
 - (iv) Ensure that any shortfall of original stone is made up of natural stone of identical form, size and appearance of the original stone.
 - (v) Ensure that mortar pointing is identical to original pointing shown in Appendix 1 in preparation and application.
 - The period for compliance with the requirements is 1 month.
 - The appeal is made on the grounds set out in section 39(1) (d) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA).
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Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld.

The Listed Building and preliminary matters

2. While the address of the wider site is referred to by the parties as Rose Bank Road, the section of boundary stone wall subject of this appeal is located on Rise Lane. It forms part of the Grade II* listed building Todmorden Hall, by virtue of it being a structure within its curtilage since before 1 July 1948.
3. No appeal is made on any other ground other than ground (d).

Appeal on ground (d)

4. For this ground of appeal to be successful an appellant must demonstrate that the works carried out were essential and urgent works necessary to preserve the listed building.

5. As such, three tests must all be satisfied. Firstly, that the works to the listed building were urgently necessary in the interests of safety or health or for the preservation of the building; secondly, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter; and thirdly, that the works carried out were limited to the minimum measures immediately necessary.
6. The appellant's case, in brief, is that he urgently needed to carry out some maintenance works to a rear embankment wall which adjoins his land (not the same wall subject of this appeal and not a listed wall). However, his usual and only access to his land, across the adjoining sorting office property, was unavailable due to the closure of that unit. That being the case he subsequently started to create his own new access by demolishing a section of the curtilage listed stone wall on Rise Lane. Additionally he partially constructed a block wall, abutting the curtilage listed wall, in order to form a boundary between his property and the adjoining sorting office land.
7. The appellant states he sought verbal permission from a Council employee to create the access. However, he does not dispute the Council's evidence that specialist advice was not sought from the Council's planning department.
8. There is no detailed evidence before me of the urgency of the maintenance works the appellant wanted to carry out to the unlisted embankment wall. However, the demolition of the section of curtilage listed wall was solely to obtain access to his land, in order to carry out maintenance elsewhere on the site. Consequently, even if that other maintenance work was of any urgency, it does not fall within the limited scope of the three tests referred to previously because it was not necessary to preserve the listed building.
9. Consequently, the tests I have set out above have not been satisfied and the appeal on ground (d) fails.

Thomas Shields

INSPECTOR