

Application to Fylde Council

135 Warton Street

Lytham St Annes

FY8 5BH

Certificate of Proposed Lawful Development.

Appellant:	Mr J Acton-Reid
Date:	April 2021
Prepared:	TP
Checked:	PS

Statement of Case

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1.0 INTRODUCTION

1.1 RBA Town Planning have been instructed by the Applicant, Mr J Acton-Reid, to act on their behalf in the preparation and submission of an Application of Lawful Proposed Development for the demolition of a front boundary wall at 135 Warton Street.

1.2 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing. (*National Planning Policy Framework 47*).

1.4 This Statement sets out the Applicants Case and sets out why the proposed demolition is considered to be lawful, this statement should be read in conjunction with the proposed plans and all other documentation submitted as part of the application.

2.0 THE SITE

2.1 The application property is a traditional two storey red brick terraced property to the North of Warton Street in Lytham. The site is located between Trent Street and Preston Road, with Lytham Hospital to the East.

Figure 1. Location Plan



2.2 Warton Road is characterised by terraced properties with amenity space to front and low brick boundary walls. This section of Warton Street has double yellow lines to the North which continues to and just after the junction with Trent Street.

3.0 PROPOSAL

3.1 The Applicant seeks confirmation with the issuing of a Certificate of Lawful Proposed Development that the demolition of the front boundary wall is Permitted Development therefore not requiring formal Planning Consent.



5.0 POLICY

Section 55 Meaning of “development” and “new development”.

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “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.

(1A) For the purposes of this Act “ building operations ” includes—

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—

- (i) affect only the interior of the building, or
- (ii) do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b) the carrying out on land within the boundaries of a road by a highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment];

(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e)the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f)in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

(g)the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.

6.0 ASSESSMENT

6.1 The Host property is an attractive mid terrace property which is bound by a low level wall to front which is consistent with the prevailing street scene with some exceptions as indicated in the pictures below.

Figure 3. 55 & 57 Warton Street



Figure 4. 71 Warton Street - Railings



6.2 It is contended that despite previous applications seeking consent for the removal of the wall, permission is not actually required for the removal of the wall.

6.3 In order for an operation to require consent it must first constitute either development or a material change in use of land. Section 55 of the Town & Country Planning Act outlines the meaning of development as *“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.*

(1A) For the purposes of this Act “ building operations ” includes—

(a)demolition of buildings;

(b)rebuilding;

(c)structural alterations of or additions to buildings; and

(d)other operations normally undertaken by a person carrying on business as a builder.

6.4 The removal of the wall is not considered to be a building operation or material change in use of land as defined by the TCPA 1990 and as such it is considered that the removal of the wall is lawful.

6.5 The Councils website outlines the following.

Council Self-Assessment Form F – “Do I Need Planning Permission for a Hardstanding, New Drive, Vehicular Access or Dropped Kerb or Wall, Fence, Gate Etc. (Part 1 Class F & Part 2 Classes A & B)”: “if you are not in a Conservation Area you will not need to apply for planning permission to take down a fence, wall, or gate, or to alter or improve an existing fence, wall or gate (no matter how high) if you don't increase its height.”

6.5 Having checked Public Records the host property is not subject to any levels of protection by virtue of Listings, Article 4 Directions or Conservation Area.

6.6 It is therefore with respect that we request a Lawful Development Certificate is issued.