

South Lakeland District Council

PLANNING COMMITTEE

21st March 2019

A REPORT ON UNAUTHORISED OPERATIONAL DEVELOPMENT AT MONTON, CART LANE, GRANGE OVER SANDS

PORTFOLIO:	Not applicable
REPORT FROM:	David Sykes - Director (People and Places)
REPORT AUTHORS:	Mark Lynch – Development Management Team Leader
WARDS:	Grange South
FORWARD PLAN:	Not applicable

1.0 EXPECTED OUTCOME

- 1.1 That Members consider the report and support the recommendation.

2.0 RECOMMENDATION

- 2.1 **That the Planning Committee notes the report and confirms the actions, if any, that it wishes officers to take.**

3.0 BACKGROUND AND PROPOSALS

3.1 SUMMARY

The report relates to a dwelling house called Monton, Cart Lane, Grange over Sands. The dwelling was subject to a number of alterations and extensions c.2015, including alterations carried out to the roof to facilitate the installation of a large box dormer window to the south east facing roof plane. Members will be aware that an enforcement notice issued by the local planning authority to remove the box dormer in 2017 was the subject of an unsuccessful appeal and is now in effect. The Planning Inspector's decision dated 2nd October 2018, granted the appellant six months within which the notice's requirements have to be complied with in full.

3.2 HISTORICAL CONTEXT

SL/2015/0255 - Certificate of Lawful Development for "a rear dormer extension, conversion of roofspace and alterations to windows". Granted 19/06/2015

SL/2015/0941 - "Erection of a privacy screen and associated planting to the south west facing gable elevation". Refused June 2016.

SL/2015/0942 - Retrospective application for the "Retention of a single storey attached garage extension to the south east facing elevation". Granted June 2016.

SL/2015/0965 - "Installation of a Juliet balcony and double doors at a first floor level to the north east facing gable". Granted June 2016.

Following issue of the Certificate of Lawful Development under SL/2015/0255 the applicant commenced works to construct the dormer window and other general renovation works to provide an 'upside down' arrangement with living/kitchen accommodation on the upper floor, bedrooms on the ground floor and a garage extension.

These works and the works to the roof to form the dormer, particularly the position of windows, generated a significant number of neighbour complaints. Following extensive enforcement investigations the applicant submitted the three subsequent planning applications set out above.

- 3.3 An enforcement notice was issued by the Local Planning Authority on 11th August 2017, following reports to the Planning Committee the previous month, requiring a number of steps to be undertaken to remedy the alleged breach of planning control, namely:-
- (1) Strip back and remove all slate roofing materials and ridge tiles, set aside for reuse except for that on the garage;
 - (2) Strip back and remove all slating battens, sarking and insulation between the rafters except for that on the garage;
 - (3) Strip back and remove the additional new timbers overlaying the original rafters;
 - (4) Remove all the window frames and framing to create the box dormer from the land and all materials and debris associated with compliance with paragraphs (1) to (3) above; and
 - (5) Return the roof to the original dwelling to its original profile and re-attach new insulation, sarking, slating battens and re-affix slates and ridge tiles.
 - (6) The period for compliance with the requirements is six months.
- 3.4 The Planning Inspector varied the requirements of the notice by deleting the requirements of (5) above and the substitution instead of "remove all the window frames and framing to create the box dormer window roof extension from the land and complete the east roof plane of the dwelling using matching materials and to the profile of the roof below and to the sides of the removed dormer". He also granted planning permission for the increase in the roof height whilst refusing permission for the box dormer.
- 3.5 The enforcement notice is now in effect, subject to the Inspector's amendment, and failure to comply with its requirements constitutes a criminal offence. Upon conviction a person responsible is liable to an unlimited fine.

4.0 RECENT DEVELOPMENTS

- 4.1 The Inspector's decision letter dismissing the appeal and upholding the varied enforcement notice was issued on 2nd October 2018. A letter was sent to the appellants from Development Management dated 15th October 2018 reminding them of their obligations to comply with the requirements of the enforcement notice on or before 2nd April 2019.
- 4.2 The owners of Monton have contacted the LPA confirming their intention to comply with the requirements of the enforcement notice in full before the due date. They have also advised the LPA that, having sought their own professional advice, they will have their permitted development rights reinstated and be able, therefore, to construct a dormer extension on the roof in the future.
- 4.3 Local residents have disputed this assertion and your officers consider it sensible to seek further opinion from Counsel in this particular matter, given the history and sensitivities that surround this case. A further report on this issue will be prepared reflecting the advice received and will be brought before Members of the Planning Committee at the very earliest opportunity.
- 4.4 The purpose of this particular report is not to comment on what may or may not happen in the future; at least not until the LPA receives its own specialist legal advice. This report focusses purely upon the matter of enforcement should the requirements of the enforcement notice not be complied with in full immediately after the due date of 2nd April 2019.

5.0 CONCLUSIONS

- 5.1 The owners of Monton are obliged to comply with the enforcement notice in full on or before the 2nd April 2019. The owners have indicated that they will do so and have agreed to inform the local planning authority when works will commence so that the operations may be witnessed, monitored and recorded to ensure that the enforcement notice's requirements are met in full. In any event, it is recommended that the site be inspected on 3rd April 2019 to ensure that the notice has been complied with.
- 5.2 Failure to do so will constitute a criminal offence and it will be the intention of officers to prepare documents for submission to the Magistrate's Court immediately after the due date in the event that the enforcement notice is not complied with in full. Members are requested to endorse this approach.

6.0 LINKS TO COUNCIL PRIORITIES

- 6.1 This report links to the aim of "Enhancing the environment in which we live, and supports the national performance indicators". The National Planning Policy Framework (NPPF) paragraph 58 states "planning enforcement is important to maintain public confidence in the planning system".
- 6.2 Having an effective robust planning enforcement regime involving people will help make South Lakeland the best place to live, work and visit. Dealing with unauthorised development in an efficient, firm and fair manner, fosters

strong links with the community, increased public confidence in the Council and value for money.

7.0 IMPLICATIONS

7.1 Financial and Resources

7.1.1 Cost implications relate to the prosecuting the owners for non-compliance through the courts, although there is the opportunity to claim costs back from the owners, if proceedings are successful. There are other potential costs if no action is taken responding to future complaints and challenges arising from local residents.

7.2 Human Resources

7.2.1 The recommendations in this report do not have any staffing implications.

7.3 Legal

7.3.1 The legal impacts are as set out elsewhere in this report.

7.4 Social, Economic and Environmental

7.4.1 This report does not have any registered significant environmental effects.

7.5 Equality and Diversity

7.5.1 The Statement of Community Involvement takes account of the equalities issues in seeking to define South Lakeland's community and interests relevant to the Local Development Framework which will influence the determination of individual planning applications.

7.6 Risk

Risk	Consequence	Controls required
The failure of a statutory requirement to investigate breaches of planning law with an effective investigative compliance and enforcement system.	Ombudsman maladministration investigation. Result in inappropriate forms of development, which would have an adverse impact on the character, and appearance of the District's historic towns and rural landscape.	To maintain sufficient resources in planning enforcement and prioritise and co-ordinate the investigation of breaches of planning control.

CONTACT OFFICER

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BACKGROUND DOCUMENTS AVAILABLE

Name of Background document	Where it is available
Various planning files	Planning Department website: http://applications.southlakeland.gov.uk/planningapplications/welcome.asp

TRACKING INFORMATION

Assistant Director	Portfolio Holder	Solicitor to the Council	SMT	Scrutiny Committee
n/a	n/a		n/a	n/a
Executive (Cabinet)	Committee	Council	Section 151 Officer	Monitoring Officer
n/a	n/a	n/a	n/a	n/a
Human Resource Services Manager	Leader	Ward Councillor(s)	Development Management Group Team Leader	
n/a	n/a	n/a		