

1 Site and Surroundings

- 1.1 The site is on the northern side of Westborough Road and contains a bungalow. The site is surrounded by terraced houses and a block of flats, in a residential area. The site is not within a conservation area and is not subject to any site-specific planning policy designations.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a dwellinghouse within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

3 Relevant Planning History

- 3.1 21/00842/FULH (the "2021 Application")- Erect single storey rear extension, alter elevations (Retrospective). - Refused. **[Officer's report at Appendix 1]**
- 3.2 21/01522/GPDE- Erect single storey rear extension, projecting 7.97m beyond the existing rear wall of the dwelling ,2.95m high to eaves and with a maximum height of 3.59m. - Refused.
- 3.3 21/02114/GPDE- Erect single storey rear extension, projecting 7.97m beyond the existing rear wall of the dwelling, 2.95m high to eaves and with a maximum height of 3.59m. – Refused – Appeal Dismissed (Ref **APP/D1590/D/22/3290535**). **[Officer comment:** The appeal was dismissed as the Inspector agreed with the Council that the extension did not benefit from prior approval development rights.]

4 Planning Policy Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023)
- 4.2 Planning Practice Guidance (PPG) (2023)
- 4.3 National Design Guide (NDG) (2021)
- 4.4 Core Strategy (2007): Policies KP2 (Development Principles), CP4 (Environment and Urban Renaissance)
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land)
- 4.6 Southend-on-Sea Design and Townscape Guide (2009)

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because officers consider it would be expedient to take enforcement action, including by issuing an enforcement notice.

6 The breach of planning control

- 6.1 The identified breach of planning control is:
- The erection of a rear extension.

7 Efforts to resolve the breach to date

- 7.1 In September 2020 a complaint was received by the Council alleging a rear extension had started to be built. The extension is some 8m deep by 8.5m wide, by 3.1m high to the eaves with a maximum height of some 3.6m at the top of the roof lantern. Following communication by the Council's Planning Enforcement team, applications were submitted seeking to regularise the development without success as highlighted in section 3 of this report.
- 7.2 A site visit was completed on 31 August 2023 and the rear extension was still in place. A final warning letter was sent requiring the extension to be removed but no response was received.

8 Appraisal

- 8.1 Through the determination of the 2021 Application, the Local Planning Authority has previously found that the development on site is unacceptable in relation to design and residential amenity of neighbouring occupiers. The officer's report for the 2021 Application is appended to this report as Appendix 1.

Impact on the Character of the Area

- 8.2 As discussed in paragraphs 7.2 to 7.8 of the officer's report of the 2021 Application (Appendix 1), the development was found to be unacceptable in terms of its impact on the character and appearance of the site and the wider area. This finding is still relevant.
- 8.3 The rear extension, by reason of its excessive size, depth, scale, bulk and height, its poor design and failure to integrate with the existing building appears as an incongruous and obtrusive, overly dominant feature, harmful to the character and appearance of the existing dwelling and wider surrounding area. This is unacceptable and contrary to the National Planning Policy Framework (2023); Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape guide (2009).

Amenity Impacts

- 8.4 As discussed in paragraphs 7.9 to 7.12 of the officer's report of the 2021 Application (Appendix 1), the development was found to be unacceptable in terms of its impact on the residential amenity of neighbouring occupiers at No. 205 Westborough Road. This finding is still relevant.
- 8.5 The rear extension, by reason of its position, excessive size, depth, scale, bulk and height, results in an overbearing, excessively dominant form of development, and causes a material loss of outlook and perceived and actual dominance for No.205 Westborough Road. This significant harm to residential amenity is unacceptable and contrary to the National Planning Policy Framework (2023); Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the advice contained within the Southend-on-Sea Design and Townscape guide (2009).

9 Enforcement Action

- 9.1 Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case. This will reasonably aim to secure the removal of the unauthorised rear extension in its entirety and remove from the site all materials resulting from compliance. No lesser steps that could remedy the identified breach or associated harm have been identified. It is considered that three (3) months is sufficient and reasonable time to allow for compliance with the above described steps.
- 9.2 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served as this will bring further focus to the need for the breach to cease and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owner in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 9.3 Taking enforcement action in this case may amount to an interference with the owner/occupier's human rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area in the public interest.

10 Equality and Diversity Issues

- 10.1 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment, and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have, in considering this planning enforcement case and preparing this report, had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

11 Recommendation

- 11.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION to require those issued with a copy of the Enforcement Notice to:**
- a) Remove from the site the rear extension in its entirety, and**
 - b) Remove from site all materials resulting from compliance with a)**
- 11.2 **The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act with time for compliance three (3) months and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.**

Appendix 1

Delegated Report

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|-----------------------------|---|
| Reference: | 21/00842/FULH |
| Application Type: | Full Application - Householder |
| Ward: | Westborough |
| Proposal: | Erect single storey rear extension, alter elevations (Retrospective) |
| Address: | 203 Westborough Road, Westcliff-On-Sea, Essex |
| Applicant: | Mr Mazdak Qayom Zada |
| Agent: | Mrs Ramela Mathysoothanan of MKM Design & Construction Ltd. |
| Consultation Expiry: | 25th May 2021 |
| Expiry Date: | 8th July 2021 |
| Case Officer: | Kara Elliott |
| Plan Nos: | MKM/21/WES203/PL02A, MKM/21/WES203/PL02 Front and Side Elevations, MKM/21/WES203/PL02 Rear and Side Elevations, MKM/21/WES203/PL02 Ground Floor, MKM/21/WES203/PL02 Location and Block |
| Recommendation: | REFUSE PLANNING PERMISSION |

1 Site and Surroundings

- 1.1 The application property is a single storey detached dwelling located on the north side of Westborough Road. The development has been completed on site and therefore the application is retrospective in nature.
- 1.2 The site is not located within a conservation area nor does it relate to a listed building.

2 The Proposal

- 2.1 Planning permission is sought to retain a single storey flat roof rear extension which measures 8m deep x 8.5m wide x 3m high minimum, 3.25m maximum where it meets the existing dwelling. The extension is some 300mm above the eaves of the existing dwelling.
- 2.2 The extension is finished in render with a grey stone finish to the rear with bifold doors. The only flank opening is a window to the west serving a kitchen.

3 Relevant Planning History

3.1 None

4 Representation Summary

Public Consultation

4.1 13 neighbouring properties were consulted. No letters of representation have been received.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2019)

5.2 Core Strategy (2007), Policies KP1 (Spatial Strategy), KP2 (Development Principles) and CP4 (Environment & Urban Renaissance)

5.3 Development Management Document (2015), Policies DM1 (Design Quality) and DM3 (Efficient and Effective Use of Land) DM15 (Sustainable Transport Management)

5.4 Design & Townscape Guide (2009)

5.5 CIL Charging Schedule (2015)

6 Planning Considerations

6.1 The key considerations in relation to this application are the principle of the development, design and impact on the character of the area, impacts on residential amenity and CIL (Community Infrastructure Levy) contributions. Due to the nature of the development which does not affect the requirements for or on-site provision of parking, no material highway or parking issues are raised.

7 Appraisal

Principle of Development

7.1 The principle of providing extensions and additions in association with the existing residential use of the dwelling is considered acceptable. Other material planning considerations are discussed below.

Design and Impact on the Character of the Area

7.2 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF (2019), in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document (2015). The Design and Townscape Guide also states that; *"the Borough Council is committed to good design and will seek to create attractive, high-quality living environments."*

7.3 Paragraph 124 of the National Planning Policy Framework (NPPF) states that, *"The creation of high quality buildings and places is fundamental to what the planning and*

development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

- 7.4 Policy DM1 of the Development Management Document states that all development should; *"add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features"*.
- 7.5 Policy DM3 (5) also advises that; *'Alterations and additions to a building will be expected to make a positive contribution to the character of the original building and the surrounding area through:*
- (i) The use of materials and detailing that draws reference from, and where appropriate enhances, the original building, and ensures successful integration with it; and*
 - (ii) Adopting a scale that is respectful and subservient to that of the original building and surrounding area; and*
 - (iii) Where alternative materials and detailing to those of the prevailing character of the area are proposed, the Council will look favourably upon proposals that demonstrate high levels of innovative and sustainable design that positively enhances the character of the original building or surrounding area.'*
- 7.6 According to Policy KP2 of Core Strategy new development should; *"respect the character and scale of the existing neighbourhood where appropriate"*. Policy CP4 of the Core Strategy requires that development proposals should; *"maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development."*
- 7.7 The single storey rear extension is 8 metres deep, spanning the width of the dwelling. The roof is set higher than the eaves of the dwelling which appears as an awkward relationship with the main dwelling. For these reasons and due to the excessive size, depth, scale, height, and bulk of the extension, it is disproportionate in scale to the main dwelling. The development results in an incongruent and visually harmful addition to the character and appearance of the dwelling. Whilst set at the rear, the Design and Townscape Guide, at paragraph 348 is clear that, *"Whether or not there are any public views, the design of rear extensions is still important and every effort should be made to integrate them with the character of the parent building, particularly in terms of scale, materials and the relationship with existing fenestration and roof form."* The extension is entirely at odds with this.
- 7.8 It is therefore considered that the development results in a detrimental impact on the character and visual amenity of the dwelling and wide surrounding area. It is therefore unacceptable and conflicts with policy in the above regards.

Impact on Residential Amenity

- 7.9 The Design and Townscape Guide states that *"extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties."* (Paragraph 343 - Alterations and Additions to Existing Residential Buildings). Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring

development and existing residential amenities *"having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight."*

- 7.10 The application property is neighboured by flats to the west; 205 and 207 Westborough Road. The single storey extension is sited a metre away from the boundary shared with this property. The ground floor openings are set some 3.35m away from the extension due to their recessed position with 2 windows serving a bedroom (one is adjacent to the existing dwelling and the other faces rearward), a door to a corridor and a window to a bathroom (obscure glazed). The kitchen window at the extension is on this elevation. It is considered that the development, due to its size, depth, scale, height and bulk, results in a significant loss of amenity to the neighbours to the west from dominance and impacts the bedroom window in the neighbouring property in terms of a significantly harmful loss of outlook.
- 7.11 There is a two-storey block of flats to the east, 1-8 Collingwood House. The development is some 4m away from the nearest flank elevation and there are no overlooking openings. The development projects some 5m deeper than the rear building line of this building but the extension does not surpass a notional 45 degree line taken from the nearest rear window of the neighbouring dwelling. Due to its single storey nature and distance retained the development does not result in a loss of amenity to the neighbours to the east from dominance, a harmful sense of overlooking or loss of privacy or light and outlook. A distance of 8.8m is retained between the extension and the rear boundary. This is not considered to overcome the harm outlined above.
- 7.12 Therefore, the proposal is considered to be unacceptable and contrary to policy in relation to neighbour amenity.

**Community Infrastructure Levy (CIL)
CIL Charging Schedule (2015)**

- 7.13 The proposed development equates to less than 100sqm of new floorspace. As such, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that the proposed development would be unacceptable and contrary to the objectives of the relevant development plan policies and guidance. The impact on the character and appearance of the dwelling from the rear extension is unacceptable due to the poor design of the extension, its incompatible relationship with the host dwelling and its excessive size, depth, scale, bulk and height through which it represents an excessively obtrusive feature in the rear garden scene. Furthermore, the development results in material harm to the amenities of the neighbouring occupiers at no.205 Westborough Road by way of perceived and actual dominance and a loss of outlook.

9 Recommendation

9.1 REFUSE PLANNING PERMISSION for the following reasons:

- 1. The rear extension, by reason of its excessive size, depth, scale, bulk and height, its poor design and failure to integrate with the existing building appears as an incongruous and obtrusive, overly dominant feature, harmful to the character and appearance of the existing dwelling and wider surrounding area. This is unacceptable and contrary to the National Planning Policy Framework; Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the advice contained within the Southend-on-Sea Design and Townscape guide (2009).**

- 2. The proposed rear extension, by reason of its position, excessive size, depth, scale, bulk and height, results in an overbearing, excessively dominant form of development, and would cause material loss of outlook and perceived and actual dominance for 205 Westborough Road, Westcliff-on-Sea. This significant harm to residential amenity is unacceptable and contrary to the National Planning Policy Framework; Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the advice contained within the Southend-on-Sea Design and Townscape guide (2009).**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. The Local Planning Authority is willing to discuss the best course of action in respect of any future application for a revised development.