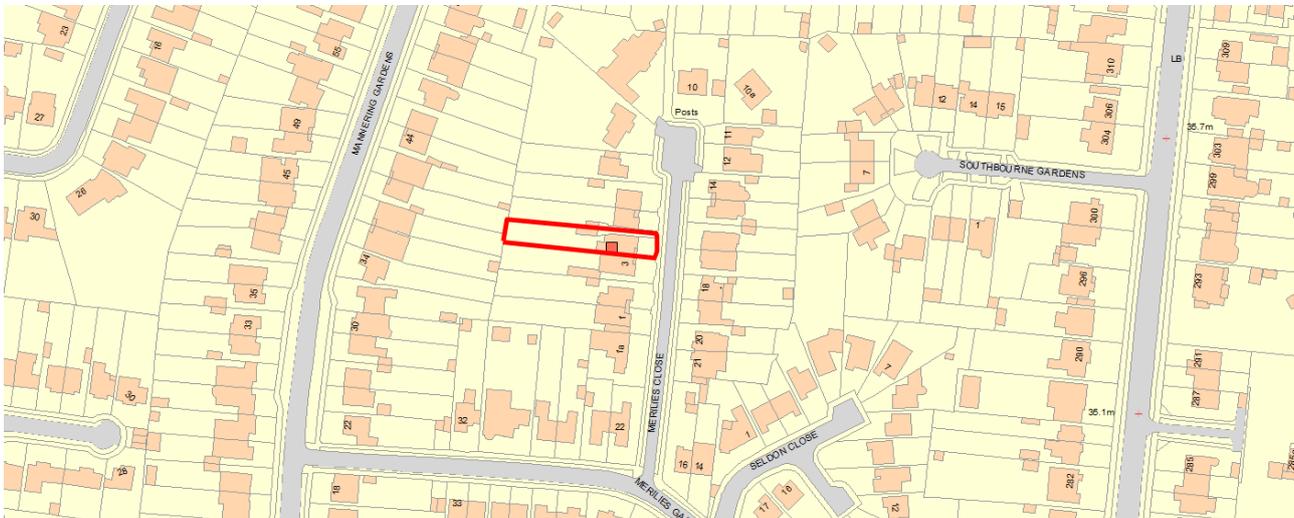


Delegated Report

Reference:	20/02080/FUL	
Application Type:	Full Application	
Ward:	Prittlewell	
Proposal:	Enlarge existing outbuilding (garage) and use for tutoring/schooling (Retrospective)	
Address:	4 Merilies Close, Westcliff-On-Sea, Essex	
Applicant:	Mr King	
Agent:	Mr Luis Mulry of Edith Garland Architecture	
Consultation Expiry:	6th January 2021	
Expiry Date:	2nd February 2021	
Case Officer:	Spyros Mouratidis	
Plan Nos:	194_R02, 194_R03, 194_R04	
Supporting Documents:	Supporting letter by applicant	
Recommendation:	REFUSE PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The application site is on the western side of Merilies Close and is currently occupied by a two-storey, semi-detached dwellinghouse of traditional design and a semi-detached outbuilding (garage) to the rear. The area to the front is hardsurfaced and used to provide one parking space. The outbuilding to the rear is accessed via a driveway shared with 5 Merilies Close. The character of the area is residential typified by mainly two-storey, semi-detached and detached residential properties. No planning related designations affect the site or the surrounding area.

2 The Proposal

- 2.1 Planning permission is sought for the enlargement of the existing outbuilding (garage) on site and the change of use of the site as a whole to a mixed use comprising the residential use of the main dwelling and the use of the outbuilding on site for education purposes for students with special education needs. It is stated in the supporting information that the students would be aged 11 years old and above but then states that they would be at an age of primary schooling, which is between 4 and 11 years old. From the information contained in the supporting letter, the applicant envisages having up to five teaching staff on site and support for up to ten pupils at any one time between 9am and 6.30pm Monday and Friday and between 9am and 4pm on Saturdays. The students would attend three-hourly sessions during the weekday mornings and hourly sessions from 3.30pm until 6.30pm and on Saturdays which could potentially result in a maximum of 207 students in a week attending the site. The use is already taking place albeit not to the full envisaged extent. The application has been submitted retrospectively under the provisions of S.73A of the Town and Country Planning Act 1990.
- 2.2 Within the application form it is stated that one parking space is lost as a result of the proposal. It is assumed this space is within the outbuilding. The submitted plans show that the outbuilding has been extended to the rear by 1.5m in additional depth and by 0.3m in height. The enlarged garage has been finished with black timber boards.

3 Relevant Planning History

- 3.1 Although there are planning history items associated with the site, none is materially relevant to the consideration of the current planning application.

4 Representation Summary

Public Consultation

- 4.1 Seven (7) neighbouring properties were consulted. Objecting comments from seven (7) interested parties and a petition have been received and are summarised as follows:
- Impact on parking conditions in the area.
 - Increase in traffic, noticeable since the use commenced.
 - Damage caused to the kerbs and verges from inconsiderate parking.
 - Impact on residential amenity of neighbours.
 - Increase in nuisance.
 - Invasion of privacy and security.
 - Breach of party wall legislation.

- Hidden intentions of the applicant.
- The access to the outbuilding is via a private driveway with a covenant for private, not commercial, use.
- Detrimental effect on house prices.

4.2 Supporting comments have been received from two (2) interested parties and are summarised as follows:

- Acceptable design.
- Attractive addition to the property and in keeping with surroundings.
- No impact on neighbouring amenity.
- The development does not obstruct views.
- No additional noise has been noticed.
- No additional parking issues have been noticed.
- Positive development supporting the needs of the children.

4.3 The comments have been taken into consideration and those relevant to planning matters are discussed in subsequent sections of the report. Other than the reasons stated in section 9 of this report, the objecting points raised by the representations are not found to represent material reasons for recommending refusal of the planning application.

Highways

4.4 Object - The applicant has not provided sufficient information to determine if there would be an adverse impact upon the public highway, staffing levels have been estimated as well as the number of students all of which will likely to travel to the site by car, no parking has been provided, Merilies Close is a small cul-de-sac with limited road width to accommodate additional on street parking or pick up and drop off facilities without having an impact on the free flow of traffic on the public highway.

Education

4.5 Comment - we have not had a conversation and would not seek a conversation about an unregistered AP opening in the area as we would not commission it to support pupils with EHCPs.

Parks and Greenspace Officer

4.6 No comments.

5 Planning Policy Summary

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

5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)

5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP6 (Community Infrastructure).

5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM10 (Employment Sectors), DM11 (Employment Areas), DM15 (Sustainable Transport Management).

- 5.5 Design & Townscape Guide (2009)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of the development, the design and impact on the character of the streetscene and wider area, the impact on residential amenity of neighbouring occupiers, traffic and transportation issues and whether the development would be liable for CIL.

7 Appraisal

Principle of Development

- 7.1 Paragraph 117 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions."
- 7.2 The alteration of an existing building is acceptable in principle. The proposal would generate employment. It is therefore considered that it would contribute to the provision of jobs in line with Policy CP1 of the Core Strategy. Policy CP6 seeks to ensure the needs of all residents and visitors, including the disabled and other vulnerable groups, are met, providing for health and social care facilities and supporting improvements to existing, and the provision of new, facilities to support the needs of education, skills and lifelong learning strategies. The proposed childcare element of the use would be in accordance with the aims of this policy. The provision of employment and education facilities on site, given the limited scale of the development and the constraints imposed by the residential nature of the area, carry some weight in favour of the development.
- 7.3 Policy DM3 states that "the Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity."
- 7.4 As discussed in the relevant section, the area is residential with no other uses present. The development has already introduced a use which is out of character in this area. The additional movements, which in the envisaged scenario could exceed 200 per week, would materially alter the character of the site and harm the residential character of the cul-de-sac and lead to undue stress on local infrastructure and the capacity of the street.
- 7.5 While the existing use as a dwellinghouse would not be lost, it is considered that the mixed use on site, particularly considering its envisaged extent, would be unacceptable in principle. Other material planning considerations are discussed in the following sections of the report.

Design and Impact on the Character of the Area

- 7.6 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. 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.”
- 7.7 The external alterations of the outbuilding have not significantly altered its layout, scale, form and appearance. The outbuilding is still experienced as an outbuilding, subservient to the main dwellinghouse on site. This aspect of the development is considered acceptable as it does not materially harm the character and appearance of the site or the area.
- 7.8 The mixed use, other than the introduction of certain paraphernalia on site associated with the education aspect, part of which is stated by the applicant to take place externally, would also result in material alteration of the character of the area. As discussed in the relevant section, the area is residential with no other uses present. The development has already introduced a use which is out of character in this area. The development is unacceptable and contrary to policy in the above regards.

Impact on Residential Amenity

- 7.9 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: “having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”
- 7.10 The outbuilding abuts the boundary with 5 Merilies Close and it is attached to its garage. The extension of the outbuilding is not materially harmful to the residential amenity of this neighbour regarding privacy, overlooking, outlook, sense of enclosure/overbearing relationship, daylight and sunlight. Regarding the impact of the proposed use on the neighbouring amenity in terms of noise and disturbance, the proposed use, particularly at its proposed maximum, would be carried out at an intensity where it would result in materially harmful noise and disturbance. The proposal can result in undue noise generation as a result of the nature of the proposed use as well as a result of the associated traffic, including traffic from employees and from drop-offs and pick-ups of children. While a condition to control the hours of operations could be considered if the application were otherwise found to be acceptable, the proposed mixed use would be problematic in terms of separating what activities are associated with which element of the use, and, fundamentally, it would fail to address the issue of noise and disturbance, given the number of staff and pupils involved. In the round, the Applicant has not demonstrated that the proposal would not be materially harmful to the residential amenity of neighbouring occupiers. The development is unacceptable and contrary to policy in these regards.

Traffic and Transportation Issues

- 7.11 Policy DM15 of the Development Management Document states: “Development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner”. The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards.
- 7.12 The current lawful use of the site attracts a minimum parking requirement of two parking spaces. Assessed against parking standards, outside of the central area the maximum parking requirement for an education facility of this nature is one space per full time equivalent staff and waiting facilities. For the proposed scheme this would mean a maximum requirement of four spaces (4) parking spaces in addition to waiting facilities for traffic associated with unknown number of children. Given the current limited level of public transport connection, the nature of the proposed use and the existing parking stress of the locality, it is considered that the maximum requirement should be satisfied in the absence of any identified mitigating factors.
- 7.13 The development has resulted in the loss of the garage space. Given that the garage did meet the minimum dimensions of 7m by 3m required for parking, it is not considered as a lost parking space. The site benefits from one parking space to the front of the dwelling. The Applicant has not demonstrated how the necessary parking provision for the proposed mixed use could be accommodated on site and that the proposal would not have a materially detrimental effect on highway safety and the free flow of traffic. The Council’s Highways team raised an objection.
- 7.14 The parking standards require the provision of two (2) cycle storage spaces for this scheme. No provision is shown on the submitted plans. There is enough space on site generally for the Applicant to provide the required amount of cycle parking. If the application were otherwise acceptable, a condition could be imposed for this matter. Overall, the development is unacceptable and contrary to policy in the above regards.

Community Infrastructure Levy (CIL)

- 7.15 As the proposed extension to the property equates to less than 100m² of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that the development is unacceptable and contrary to relevant local and national policies and guidance. Whilst acceptable in other regards, the application has not demonstrated that the mixed use, including in its maximum proposed extent, would not be materially harmful to the residential amenity of neighbours in terms of noise and disturbance or that sufficient on-site parking and waiting facilities would be provided in order to avoid a materially detrimental impact on the parking conditions in the local area, the free flow of traffic and highway safety. The benefits of the proposal, including the provision of limited additional education facilities and generation of employment, which have been given due weight in a balancing exercise, do not outweigh the significant and material harm identified. The application is, therefore, recommended for refusal.

9 Recommendation

9.1 REFUSE PLANNING PERMISSION for the following reason(s):

- 01** The development has introduced a significant education use within a purely residential cul-de-sac to the material detriment of the character of site and the wider area. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2019), 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 (2019) and the Southend Design and Townscape Guide (2009).
- 02** The application fails to demonstrate that the development would not have a materially detrimental impact on the residential amenity of neighbouring occupiers as a result of noise and disturbance arising from activities and vehicle movements associated with the education element of the mixed use. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend Design and Townscape Guide (2009).
- 03** The application fails to demonstrate that the development would provide sufficient on-site parking and waiting facilities to meet the needs of future employees, occupiers and users of the premises, which would be likely to result in additional vehicles parked within the public highway, to the material detriment of parking conditions in the locality, highway safety and the free flow of traffic. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies CP3 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1, DM3 and DM15 of the Southend-on-Sea Development Management Document (2015).

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. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action via the pre-application service available at https://www.southend.gov.uk/info/200155/make_a_planning_application_and_planning_advice/365/planning_advice_and_guidance/2

Informatives:

- 1** You are advised that as the proposed extension(s) or change of use to your property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See the Planning Portal (www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (www.southend.gov.uk/cil) for further details about CIL.

- 2** Failure to regularise the unauthorised use is likely to result in the Council considering it expedient to take enforcement action to seek to remedy the identified harm.