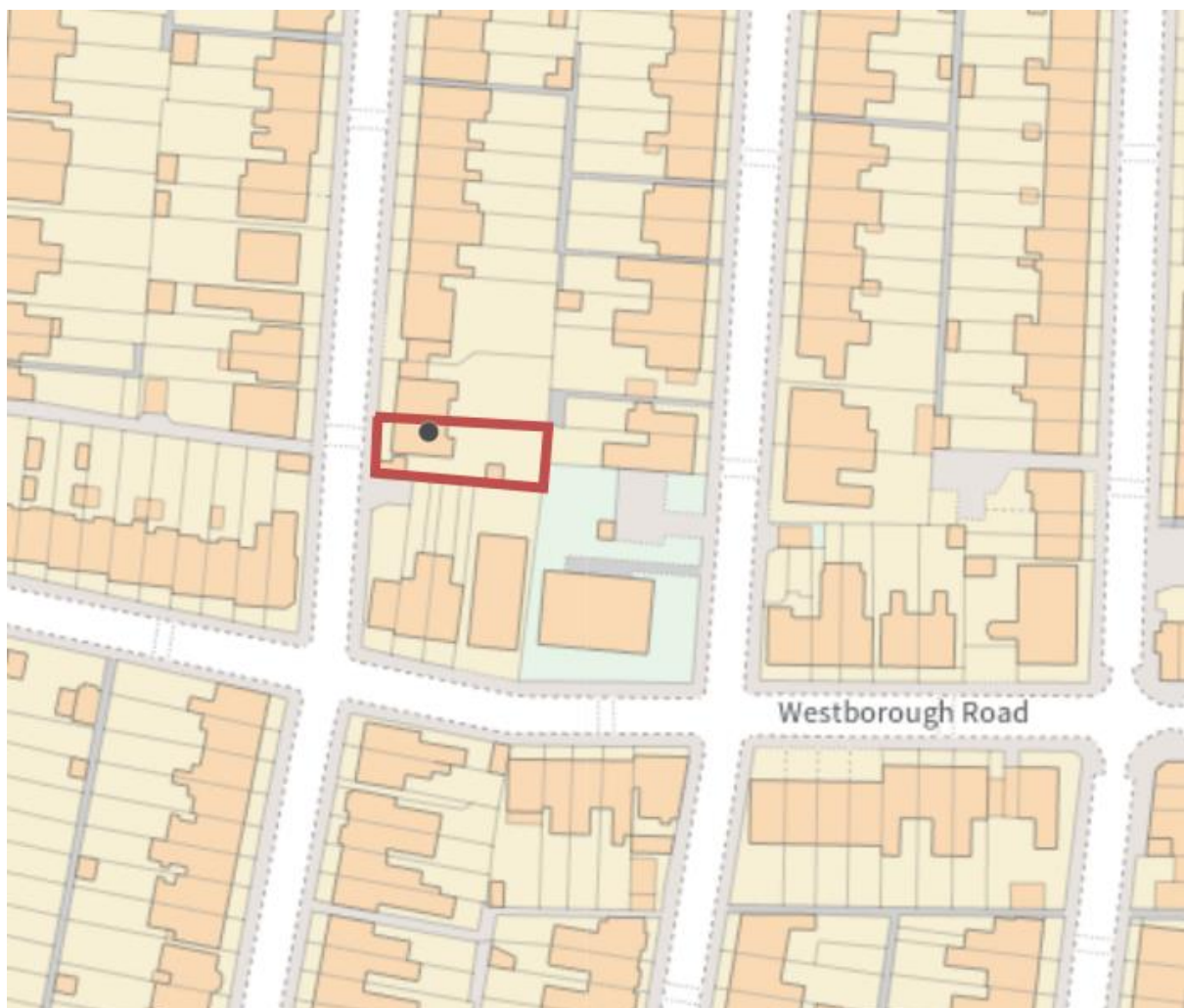


Reference:	20/00296/UNAU_B	
Report Type:	Enforcement	
Ward:	Westborough	
Breach of Planning Control:	Erection of garage and covered walkway	
Address:	66 Westcliff Park Drive, Westcliff-on-Sea, Essex	
Case Opened Date:	20.09.2020	
Case Officer	Edward Robinson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The site is occupied by a semi-detached dwelling on the east side of Westcliff Park Drive. The area is residential in character.
- 1.2 The site is not within a conservation area or subject to any site-specific planning policy designations.

2 Lawful Planning Use

- 2.1 The lawful planning use of the site is for residential purposes within Use Class C3 of the Town and Country Planning (Use Class Order) 1987 (as amended).

3 Relevant Planning History

- 3.1 89/0024 - Erect single storey rear extension and convert extended dwellinghouse into two self-contained flats. Refused (22.09.1989).
- 3.2 23/01043/FULH (the "2023 Application") - Erect single storey side extension for use as garage with covered walkway and gate to front (Retrospective). Refused (15.08.2023).

Reasons for refusal:

- 01 *The development, by reason of its size, forward siting and its design, in particular its rudimentary timber balustrade feature, and materials, would appear as a prominent addition and would be out of keeping with the streetscene, resulting in significant harm to the character and appearance of the application site and the wider streetscene. This is unacceptable and contrary to the National Planning Policy Framework (2021); Policies KP2 and CP4 of the Southend-on-Sea Core Strategy; 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).*
- 02 *The proposed development would fail to meet the minimum size requirement for a garage or a parking space and is set close to the back edge of the footpath, it would therefore in all likelihood result in a vehicle overhanging the public highway as well as unsafe vehicle movements to the detriment of pedestrian and highway safety and the local highway network. This is unacceptable and contrary to the National Planning Policy Framework (2021), Policy CP3 of the Core Strategy (2007), Policies DM3 and DM15 of the Development Management Document (2015).*

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), CP3 (Transport and Accessibility); CP4 (Environment and Urban Renaissance)
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management).
- 4.6 The Southend-on-Sea Design and Townscape Guide (2009)

5 The Alleged Planning Breach

5.1 This case is presented to the Development Control Committee because it is considered expedient to issue an enforcement notice and this action requires authorisation by the Committee.

5.2 The identified breach of planning control is:

Erection of garage and covered walkway.

5.3 The single storey development to the dwelling's south side, which is described as a garage, is 3m wide, 5m deep (2.57m wide and 4.5m long internally) and 2.7m high to the eaves, maximum 3.1m high. The garage is some 1m from the flank of the main dwelling and is joined to the dwelling's flank wall by a covered walkway, with a gate on the front. The garage projects some 2m in front of the main dwelling and is set back some 0.6m from the highway boundary. It has a garage door to the front elevation, is constructed in a timber frame and cladding and has a rudimentary low wooden balustrade around its roof.

6 Efforts to Resolve the Breach to Date and harm caused

6.1 In August and September 2020, two complaints were received by the Council alleging that the garage had a flat roof and enclosing balustrade, with the possibility of this being used as a terrace i.e. a focus on the covered walkway and potential use of the garage's roof. Subsequent officer visits were made culminating in submission of a retrospective planning application in June 2023.

6.2 Through determination of the 2023 application on 15th August 2023 this Local Planning Authority found that the development is unacceptable and harmful for the design and character and highway safety reasons stated in paragraph 3.2 above. The detailed analysis including the development's conflict with design and character policies and guidance is contained in the officer's report for the 2023 Application, attached at Appendix 1. During the course of the enforcement investigation no material evidence was identified to suggest that the development's flat roof will in practise be used as a terrace. This did not form part of the 2023 retrospective application. Also, there are no flank openings in the dwelling's first floor indicating that access would be readily available to any terrace. This aspect of the initial third-party complaints is not given any further assessment within this report but is in any event indirectly addressed through the substantive

enforcement steps recommended within this report.

- 6.3 The report in Appendix 1 explains that the site lies at the end of a row, so its southern side elevation is prominent within the streetscene. There are no examples of side extensions which project materially forward of dwellings in this site's vicinity. The unauthorised development projects some 2m forward of the main dwelling, close to the highway boundary, and appears prominent and at odds with the host dwelling and the wider streetscene. The impact of the extension is exacerbated by its timber construction and materials and the rudimentary balustrade both of which are incongruous. It was found that the development significantly harms the character and appearance of the host dwelling and the streetscene more widely contrary to relevant planning policies and guidance.
- 6.4 The garage does not meet the minimum adopted internal space for a garage of 7m by 3m or for a parking space of 2.4 x 4.8m. There is no vehicular access to the garage. No access was proposed as part of the 2023 application, so it may in practise be used for domestic storage purposes rather than garaging vehicles especially given its neat dimensions. However, if garaging use is in fact intended, either now or at some future point, accessing the garage would involve vehicles needing to bump up the kerb and crossing the footpath. This risks harm to pedestrian safety and may cause damage to the footway surface increasing such risks further. Also, the development is set close to the back edge of footpath and its use for garaging vehicles would in all likelihood result in vehicles overhanging the footpath/highway. Certain of the described issues, especially bumping over the footway, are notionally controllable under highways related legislation although such matters can be difficult to monitor and control in practise. Regardless, in planning control terms the unauthorised development is considered to be materially harmful to highway safety and safe functioning of the local highway network and thereby contrary to relevant planning policies and guidance.

7 Enforcement and Legal Action

- 7.1 Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case. Enforcement action in this case will reasonably aim to secure the removal of the garage and covered walkway and to remove from site all materials resulting from compliance. As this is understood to be essentially a single structure it is considered that there are no lesser steps that could reasonably remedy the identified breach or associated harm in this instance.
- 7.2 When serving Enforcement Notices the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of three (3) months is considered reasonable for compliance with the above requirements.
- 7.3 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served on the responsible parties as this will bring further focus to the need for the breach to be regularised and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owners in seeking to gain planning permission for a different proposal which remedies the identified

harm.

- 7.4 Taking enforcement action in this case may amount to an interference with the owners'/occupiers' human rights. However, it is necessary for the Council to balance the rights of the owners/occupiers against the legitimate aims of the Council to regulate and control land within its area in the public interest.

8 Equality and Diversity Issues

- 8.1 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.

9 Recommendation

9.1 AUTHORISE ENFORCEMENT ACTION to require:

- a) **Remove from the site in their entirety the southern side garage and covered walkway.**

AND

- b) **Remove from site all materials resulting from compliance with a) above.**

- 9.2 **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

Reference:	23/01043/FULH
Application Type:	Full Application – Householder
Ward:	Westborough
Proposal:	Erect single storey side extension for use as garage with covered walkway and gate to front (Retrospective)
Address:	66 Westcliff Park Drive, Westcliff-on-Sea, Essex
Applicant:	Mr Michael Southam
Agent:	N/A
Consultation Expiry:	3rd August 2023
Expiry Date:	15th August 2023
Case Officer:	Gabriella Fairley
Plan Nos:	Location plan, PL001 (Rev P1), EX001 (Rev S1)
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The site is occupied by a semi-detached dwelling on the east side of Westcliff Park Drive. The area is residential in character.
- 1.2 The site is not within a conservation area or subject to any site-specific planning policy designations.

2 The Proposal

- 2.1 Planning permission is sought retrospectively to erect a flat roofed single storey side extension, which is used as a garage. It is 3m wide, 5m deep (2.57m wide and 4.5m long internally) and 2.7m high to the eaves, maximum 3.1m high. The garage is some 1m from the flank of the main dwelling and is joined by an open walkway, with a gate on the front. The garage projects some 2m beyond the front elevation of the main dwelling and is set back some 0.6m from the highway boundary. It has a garage door to the front elevation, is constructed from a timber frame and cladding and has a decorative balustrade around its roof.
- 2.2 The application has been submitted following an enforcement investigation.

3 Relevant Planning History

- 3.1 89/0024 – Erect single storey rear extension and convert extended dwellinghouse into two self-contained flats. Refused (22.09.1989).
- 3.2 20/00296/UNAU_B - Extension to garage forward of principal elevation and formation

of a covered walkway with terrace over. Ongoing.

4 Representation Summary

Public Consultation

- 4.1 Twenty (20) neighbouring properties were notified of the application by letter. No letters of representation have been received.

Highways

- 4.2 Object – the garage does not meet the required standard of 7m x 3m. The applicant would also need to apply to Highways for a vehicle crossover and this is not shown on the plan.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 5.3 Core Strategy (2007): Policies KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance).
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management).
- 5.5 The Southend-on-Sea Design and Townscape Guide (2009)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Appraisal

Principle of Development

- 6.1 The principle of extending or altering an existing dwelling is considered acceptable and policy compliant, subject to the proposal appropriately addressing the relevant detailed planning considerations.

Design and Impact on the Character of the Area

- 6.2 Local and national planning policies and guidance seek to ensure that new development is well designed. 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.
- 6.3 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contribute positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Southend-on-Sea Design and Townscape Guide provide further details on how this can be achieved.

- 6.4 The brick and rendered application dwelling lies at the end of a row, consequently its side elevation is prominent in the streetscene. This part of Westcliff Park Drive is strongly characterised by runs of similar, semi-detached and terraced dwellings, which are set on a uniform building line. There are some examples of discreet side additions, but these are set level with, or back from, the main building. There are no examples of side extensions which project forward of the main dwelling. The development is sited some 2m forward of the main dwelling, close to the highway boundary, and appears prominent and at odds with the host dwelling and the wider streetscene. The impact of the extension is exacerbated by its timber construction and materials and the rudimentary balustrade. In this instance as the use of timber is intrinsic to the construction of the garage it is not considered that suitable alternative materials could be secured by condition. It is considered that the development significantly harms the character and appearance of the host dwelling and the streetscene more widely.
- 6.5 It is considered that the design, size, siting, and scale of the development are such that it would result in any significant harm to the character and appearance of the site, the street scene and the area more widely. The development is therefore considered to be unacceptable and contrary to relevant policies.

Amenity Impacts

- 6.6 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 6.7 The development is some 14.3m from the closest rear elevation of the dwellings to the south of the site, Nos 203 – 213 Westborough Road and some 5.7m from No. 68 Westcliff Park Road. Taking into consideration the separations involved, it is considered that the development does not significantly harm any neighbouring property's amenities in any relevant regard.
- 6.8 It is considered that the design, size, siting, and scale of the development are such that it would not result in any significant harm to the amenities of the site, neighbouring occupiers, or wider area in any regard. The development is therefore considered to be acceptable and policy compliant in terms of its amenity impacts.

Traffic and Transportation Issues

- 6.9 Paragraph 111 of the NPPF states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.
- 6.10 The Council's Vehicle Crossing Policy and Application Guidance is not an adopted planning document but is a material consideration to which due weight should be given in the assessment of the proposal. Policy DM15 of the Development Management Document requires that all development should meet the minimum off-street parking standards.

- 6.11 There is no vehicular access to the garage and no access is proposed as part of this application. The application is retrospective in nature and in order to access the garage vehicles are required to bump up the kerb and cross the footpath. This can cause damage to the footway surface increasing the risks to pedestrians and cyclists. The garage is set close to the back edge of footpath and any use for parking of vehicles would in all likelihood result in vehicles overhanging the footpath/highway. Furthermore, the proposed garage does not meet the minimum adopted internal space for a garage of 7m by 3m or for a parking space of 2.4 x 4.8m. The development is considered to be to the detriment of highway safety and safe functioning of the local highway network. The Council's Highways team have objected.
- 6.12 The development's impact on highway and pedestrian safety is therefore considered to be unacceptable and contrary to policy.

Community Infrastructure Levy

- 6.13 The development is not liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended).

Equality and Diversity Issues

- 6.14 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 application 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.

Conclusion

- 6.15 For the reasons outlined above the development is found to be unacceptable and contrary to the relevant planning policies and guidance. As there are no other material planning considerations which would justify reaching a different conclusion it is recommended that planning permission is refused.

7 Recommendation

7.1 REFUSE PLANNING PERMISSION for the following reasons:

- 01 The development, by reason of its size, forward siting and its design, in particular its rudimentary timber balustrade feature, and materials, would appear as a prominent addition and would be out of keeping with the streetscene, resulting in significant harm to the character and appearance of the application site and the wider streetscene. This is unacceptable and contrary to the National Planning Policy Framework (2021); Policies KP2 and**

CP4 of the Southend-on-Sea Core Strategy; 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).

- 02 The proposed development would fail to meet the minimum size requirement for a garage or a parking space and is set close to the back edge of the footpath, it would therefore in all likelihood result in a vehicle overhanging the public highway as well as unsafe vehicle movements to the detriment of pedestrian and highway safety and the local highway network. This is unacceptable and contrary to the National Planning Policy Framework (2021), Policy CP3 of the Core Strategy (2007), Policies DM3 and DM15 of the Development Management Document (2015).

Informatives

- 1 You are advised that as the development equates to less than 100sqm of new floorspace 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 www.southend.gov.uk/cil for further details about the Levy.
- 2 The applicant is reminded that the development on site remains unauthorised. Failure to remedy this may result in the council considering expediency of enforcement action to seek to remedy the current identified harm.

Positive and Proactive Statement

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.

Case Officer Signature.....GF.....	Date 01.08.2023
Senior Officer Signature.....CG.....	Date 15.08.2023
Delegated Authority Signature.....PK.....	Date 15.08.2023

