



# Appeal Decision

Site visit made on 25 June 2012

**by David Harmston FRICS DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 July 2012**

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**Appeal Ref: APP/D1780/A/12/2171564**

**3 Abbots Way, Southampton SO17 1QU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure of the Local Planning Authority to give notice of its decision within the appropriate period on an application for planning permission.
  - The appeal is made by Mr S Ahmed against Southampton City Council.
  - The application (Ref 11/02039/FUL) was dated 22 December 2011.
  - The development proposed is the erection of a two-storey side extension and a rear first floor balcony (Re-submission of 11/00553/FUL).
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## Application for Costs

1. An application for a full award of costs has been made by the appellant against Southampton City Council. This is subject to a separate decision.

## Decision

2. The appeal is allowed and planning permission is granted for the erection of a two-storey side extension and a rear first-floor balcony (Re-submission of 11/00553/FUL) at 3 Abbots Way, Southampton SO17 1QU in accordance with the terms of the application (Ref 11/02039/FUL), dated 22 December 2011, subject to the following conditions:
  - (1) The development hereby permitted shall be begun before the expiration of three years of the date of this permission.
  - (2) The development hereby permitted shall be carried out in accordance with the following approved drawings – Nos:- C10/99.01A; C10/99.02A; C10/99.03A; C10/99.04A; C10/99.05A; C10/99.06A; C10/99.07A; C10/99.08A; C10/99.09A; C10/99.10A; C10/99.11A; C10/99.12A and C10/99.13A.
  - (3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting that Order with or without modification), no additional windows, dormer windows or other openings shall be formed in the extension hereby permitted.

- (5) No building operations, site clearance or demolition of the existing building shall take place on the site otherwise than between 0800 hours and 1800 hours on Mondays to Fridays, 0800 hours and 1300 hours on Saturdays and at no time on Sundays or Bank and Public holidays.

### **Procedural Matters**

3. The appeal is made against the failure of the Local Planning Authority to give notice of its decision within the appropriate period. Had it been in a position to do so, the Council would have refused planning permission for the proposals for the following reasons:
  1. The proposed extension to an already significantly extended property within the Portswood Residents' Gardens Conservation Area would erode the spatial and verdant character of this section of Abbots Way and result in a building with a greater plot coverage than is characteristic of (*sic*) the immediate area surrounding the site. The proposal therefore fails to preserve or enhance the established character of the Conservation Area contrary to Policy PRG2 of the Portswood Residents' Gardens Conservation Area Appraisal and Management Plan; Policies SDP7 (iii) and (iv) and HE1 (i) of the City of Southampton Local Plan Review 2006 and Policy CS14 of the LDF Core Strategy (January 2010).
  2. The proposed extension would erode the existing separation between the dwelling and habitable room windows in the flank wall of 5 Abbots Way. The remaining separation would be less than 12.5m as advised by paragraphs 2.2.7 and 2.2.8 of the Residential Design Guide (September 2006) and would result in an increased sense of enclosure to occupiers of those habitable rooms to the detriment of the amenity currently enjoyed by them. As such the proposal would be contrary to Policies SDP1 (i), SDP7 (iii) and (iv), SDP9 (i and v) and H2 (iii) of the City of Southampton Local Plan Review (March 2006) and Policy CS13 (1 and 11) of the LDF Core Strategy (January 2010).
4. In reaching my conclusions on this matter, I have taken account of the recently published National Planning Policy Framework. The Local Plan was adopted in March 2006 and the Local Development Framework (LDF) Core Strategy in January 2010. As such the local policy context is relatively up to date. Moreover, none of the relevant development plan policies are inconsistent with the Framework. Therefore, and whilst the policies in the Framework have been considered, in the light of the facts of this case, they do not alter my overall conclusions on this matter.

### **Main Issues**

5. There are two main issues in this appeal. These are, firstly; the effects of the development on the character and appearance of the area having regard to the location of the site within the Portswood Residents' Gardens Conservation Area and, secondly; the effect of the development on the living conditions of the occupants of No 5 Abbots Way arising from any undue overpowering impact or an unacceptable loss of daylight or outlook.

## Reasons

6. The proposal is to alter and extend this substantial detached dwellinghouse to its south-eastern side by the erection of a two-storey extension. The proposals also include the formation of a balcony at first floor level to the rear of the property. This element of the development is considered to be acceptable by the Council and having seen the site and assessed the impact of this alteration I agree with this conclusion and consider that matter no further.
7. The *Appraisal and Management Plan* for the Portswood Residents' Gardens Conservation Area describes the area as a unique feature within Southampton consisting of a planned residential estate with two key elements. These are, firstly, the individually designed family houses, built mainly between 1908 and 1930. Secondly is the presence of two residents' gardens; one laid out as a formal garden with an Edwardian Pavilion and tennis courts and the other as a Meadow with allotments, a stream and a copse.
8. The *Character Appraisal of the Area (1999)* acknowledges the special character of the neighbourhood as an early example of the Garden City Movement referring to '*its generous layout in terms of the ratio between open space and buildings*'. Of particular relevance to this appeal is Policy PRG2 of the Appraisal. Amongst other matters, this states that any proposals for an extension to a building must conform with the special characteristics of the Conservation Area which include the historic layout and pattern of the development, plot ratios, the distances between buildings and its verdant spaciousness.
9. These are important considerations of direct relevance to this appeal attracting substantial weight in the planning balance. Further, any development within the Conservation Area must serve to preserve or enhance its character or appearance. The proposed side extension to the appeal property has been designed in a way that would minimise its impact on the appearance and spaciousness of the streetscene by retaining a gap of about four metres between the side of the extension and the boundary with No 5 Abbots Way. With its hipped roof configuration sloping away from the boundary and its lower ridge height than that of the main house I consider it to be subservient in scale and character to the host dwelling.
10. Criticism has been made of the scheme because it would represent a further incremental increase in the size of the building which has been extended and altered in various ways in the past. However, the size of the plot and its frontage width are large compared to many properties on the estate as a whole and the ratio of building footprint to open site in terms of coverage, even with the extension in place, would not be excessive, in my conclusion. Along the frontage to Abbots Way distances between the flank sides of buildings vary considerably. The size of the undeveloped gap currently existing between Nos 3 and 5 is unusual and greater than is present in other locations, particularly those separating the buildings on the opposite side of the road.
11. The residual measure of separation between the opposing flank walls of the adjacent houses that would be created with the extension in place would be

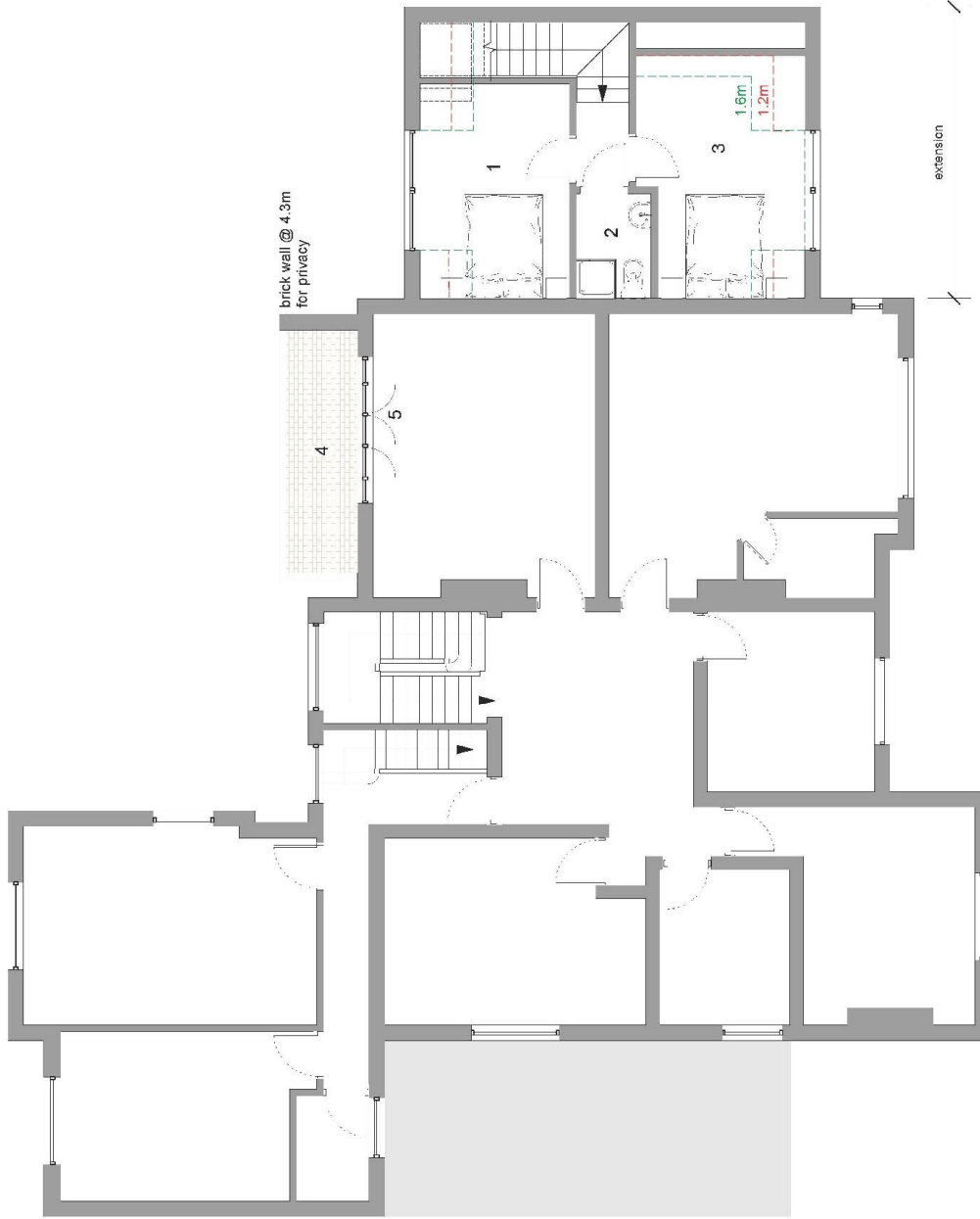
- consistent with, or more than, that present in many other locations. Despite the greater frontage width of the appeal property compared to others within the vicinity, the character and appearance of the streetscene would not be unduly compromised. A reasonable gap between buildings would be maintained, preserving the special character of the area in an adequate way.
12. The side elevation of the extension would not be in the form of a full two-storey gable end but, with its sloping roof format, would be less harsh and intrusive than would otherwise be the case whilst maintaining an acceptable measure of spaciousness between the adjacent buildings as perceived when the developed site were viewed in the streetscene.
  13. For all these reasons, and on the first main issue, I conclude that the development would be neutral in terms of its effect on the preservation or enhancement of the character or appearance of the Conservation Area and such change in the perception of the site both from the street as well as the adjoining property would not be the cause of any unacceptable harm. The development would therefore meet the tests of Policy PRG2 of the Appraisal as well as the relevant policies of the development plan as set out in the Council's intended decision notice.
  14. On the second main issue, Paragraph 2.2.7 of the Council's *Residential Design Guide* states that the separation distances between windows of habitable rooms and the side (gable end) wall of another house or building should be 12.5-metres in the case of a two-storey house to the side wall of a two-storey building. In this instance the wall in question would not be a gable-end to a two-storey building but one where the slope of the cat-slide roof above the ground floor would be away from the boundary reducing the impact on the adjoining property by a significant extent. The distance between the windows in the side elevation of No 5 Abbots Way and the flank wall of the proposed extension would be significantly greater than four metres and a garage is present in a position close to the boundary and between the two properties. The separating distance between buildings increases above the ground floor level of the extension with the backward slope of the roof.
  15. Therefore, as the proposed extension would not constitute a full two-storey element with a gable-end to a pitched roof above, I do not consider that this aspect of the proposal would be in breach of the Council's guidelines in this respect. In my conclusion the extension would be sufficiently well removed from the side elevation and rear garden of No 5 Abbots Way to avoid the creation of any undue harm to the living conditions of the occupants of that property. Together with the other features of the development, such as the height of the eaves, the sloping roof would be in a position well enough away from the boundary with the adjoining house to minimise its impact in terms of any undue overshadowing, loss of light or overbearing impact to the extent that I conclude that the development is acceptable on this issue.
  16. On both main issues, therefore, I consider the development to be acceptable and in compliance with the provisions of Policies SDP1 (i), SDP7 (iii) and (iv), SDP9 (i) and (v), H2 (iii) and HE1 (i) of the City of Southampton Local Plan

Review 2006 and Policies CS13 (1 and 11) and CS14 of the LDF Core Strategy (January 2010) as well as the relevant policies of the Framework.

17. In allowing the appeal and granting planning permission for the development I have considered the Council's suggested conditions in the light of Circular 11/95 (*The Use of Conditions in Planning Permissions*) and all the circumstances of this case. Apart from the statutory time duration of the permission it is necessary to ensure that the materials used in the development match those of the existing building, in the interests of visual amenity. I have specified the approved drawings in the interests of proper planning and for the avoidance of doubt.
18. To avoid overlooking from the property it is necessary and reasonable to impose a condition preventing the construction of any additional openings in the permitted extension. Finally, in this instance, I agree that a condition should be imposed controlling the hours during which work in connection with the development can be implemented, in the interests of residential amenity.
19. I have considered and taken into account everything else that has been raised in relation to this appeal including all the matters raised by a number of interested parties which include the Trustees of Portswood Residents' Gardens. I have afforded weight in the planning balance to all the points made in opposition to this proposal but nothing overrides my conclusions above and the reasons for them.

*David Harmston*

Inspector



- key
- 1. bedroom 1
  - 2. shower room
  - 3. bedroom 2
  - 4. private balcony
  - 5. access to balcony

proposed first floor plan

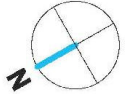
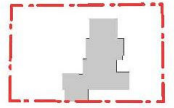
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A	Re-app	20/10/2011

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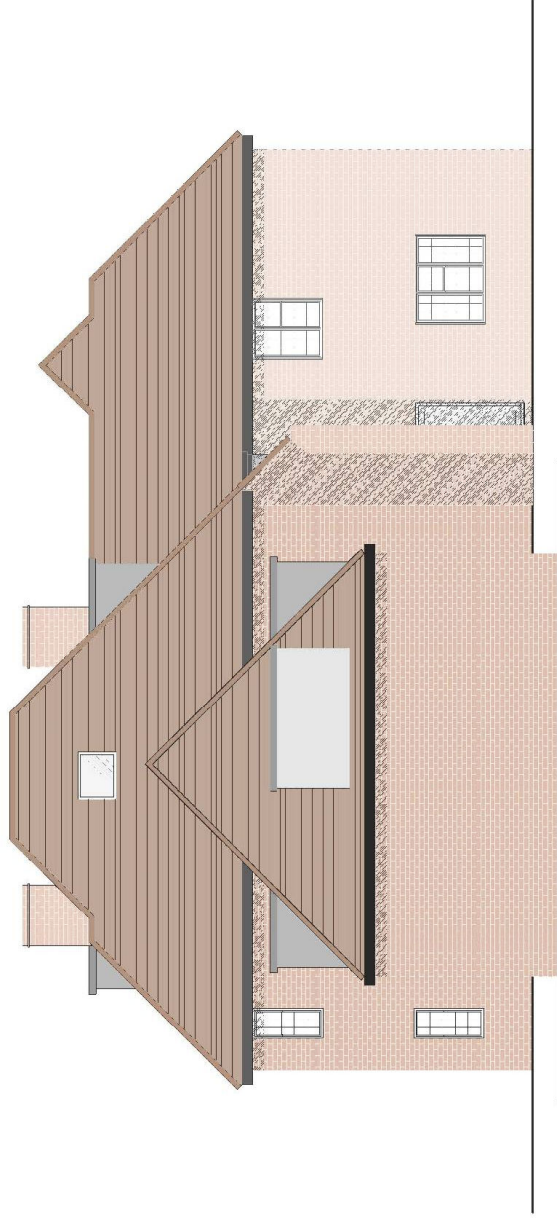
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Project:	3 Abbots Way
Drawing:	Proposed 1st Floor Plan
Drawing No:	C-10/09.09
Scale:	1:100 @ A3
Revision:	A
Date:	Dec 2010



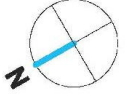
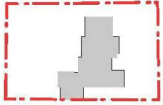
proposed east elevation

material key:



Rev:	Note:	Date:	Notes:
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Project: 3 Abbots Way  
 Drawing: Proposed east elevation  
 Drawing No: C10/99.13  
 Scale: 1:100 @ A3



Revision:	Date:
A	Dec 2010