

**Planning and Rights of Way Panel 14<sup>th</sup> January 2020**  
**Planning Application Report of the Head of Planning & Economic Development**

<b>Application address:</b> 4 Fitzroy Close, Southampton			
<b>Proposed development:</b> Erection of a single-storey front and two-storey side extension. (Re-submission of planning application 19/01442/FUL).			
<b>Application number:</b>	19/01832/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Stuart Brooks	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	27.12.2019	<b>Ward:</b>	Bassett
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received	<b>Ward Councillors:</b>	Cllr Les Harris Cllr Beryl Harris Cllr John Hannides
<b>Referred to Panel by:</b>	n/a	<b>Reason:</b>	n/a
<b>Applicant:</b> Mrs S Bhakar		<b>Agent:</b> CMCdesign	

<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2019). Policies – CS13 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP7, SDP9, SDP12 of the City of Southampton Local Plan Review (Amended 2015). Policies BAS4 of the Bassett Neighbourhood Plan (2016).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Refused application 19/01442/FUL

**Recommendation in Full**

**Conditionally approve**

## **1. Introduction & Background**

- 1.1 This re-submission follows a previous delegated refusal on 25.10.19 for the erection of a single-storey front and two-storey side extension (LPA Ref 19/01442/FUL).
- 1.2 The application was refused because the two-storey extension would have resulted in a visually oppressive and overbearing impact on neighbouring properties at 6, 7 and 8 Fitzroy Close.
- 1.3 The previously refused two-storey extension was sited 11.3 metres from neighbouring habitable windows in Fitzroy Close and therefore failed to meet the minimum separation distance of 12.5 metres between windows of habitable rooms and the side (gable end) wall of another house, as set out within the Council's approved Residential Design Guide SPD.
- 1.4 This current proposal (LPA Ref 19/01832/FUL) has amended the two-storey side extension by reducing the width of the first-floor of the side extension by 1.2 metres. The scheme now achieves a separation distance of 12.5 metres from neighbouring habitable windows in Fitzroy Close.

## **2. The site and its context**

- 2.1 The site lies within the ward of Bassett to the west of Bassett Avenue and south of the M27. The local area is characterised as a leafy suburban residential area with mainly two-storey terraced housing forming part of a modern higher density housing estate. The area is characterised by a group Tree Preservation Order dating back to 1958 (Lingwood – Bassett Avenue). There are trees nearby in the neighbouring gardens and towards the eastern end of the site but not directly affected by the proposal.
- 2.2 The site itself comprises a two-storey terraced 3 bedroom house within a long sized plot (area of 390sqm). An integral garage at the front of the property has been previously converted into a habitable space which is also evident of other neighbouring properties within the same terrace.

## **3. Proposal**

- 3.1 This is a resubmission following refusal of application ref no. 19/01442/FUL. The current application again seeks to create additional living space at ground and first floor by extending the property to the front and side at single and two storey level. This re-submission has amended the previously refused scheme by reducing the width of the first-floor to the two-storey side extension by 1.2 metres in order to satisfy the required minimum 12.5m separation distance between the two-storey extension and neighbouring windows, as set out within the Council's Residential Design Guide SPD.

## **4. Relevant Planning Policy**

- 4.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015), the City of Southampton Core Strategy (as amended 2015), and the Bassett Neighbourhood

Plan (July 2016). The most relevant policies to these proposals are set out at **Appendix 1**.

- 4.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 4.3 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policies SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allows development which will not harm the character and appearance of the local area, and the building design in terms of scale and massing should be high quality which respects the surrounding area. Policy H7 expects residential development to provide attractive living environments. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design. These policies are supplemented by the design guidance and standards as set out in the relevant chapters of the Residential Design Guide SPD. This sets the Council's vision for high quality housing and how it seeks to maintain the character and amenity of the local neighbourhood.
- 4.4 Policy BAS 4 (Character and Design) of the Neighbourhood Plan expects new development to complement the street scene, with particular reference to the scale, spacing, massing, materials and height of the neighbouring properties.

## **5. Relevant Planning History**

- 5.1 An application (ref no. 19/01442/FUL) was recently refused in October this year for a similar extension on the basis that officers were concerned that the proximity and height of the 2 storey side extension, in terms of its siting and massing, would be visually oppressive and overbearing to the residential amenities to the neighbouring occupiers situated to the south at no. 6, 7 and 8 Fitzroy Close. A copy of the decision notice and plans are appended to **Appendix 2**.

## **6. Consultation Responses and Notification Representations**

- 6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners. Although amended plans have been received during the course of the application, it was not considered necessary to reconsult neighbours as the plans shows an improvement to the relationship with the neighbouring properties by reducing the size of the extension and not materially changing its appearance. At the time of writing the report **9 representations** (7 objections and 2 support) have been received from surrounding residents. The following is a summary of the points raised:

### **6.2 Additional street parking pressure to surrounding streets** **Response**

The property will still be occupied as a 3 bedroom house so there would not be any significant increase in parking demand from the same household size. The

associated garage has already been converted to living accommodation and so there is no change in the parking proposed.

6.3 ***Loss of outlook, light and privacy to garden and living spaces of neighbouring properties***

**Response**

Although the visual changes are perceptibly minor since the previously refused application, the reduction in the width of the 2 storey side extension increases the gap between side gable of the proposed extension and the rear elevation of the neighbouring properties (to the south) to 12.5m (it was previously 11.3m). As set out in paragraph 2.2.7 of the Council's Residential Design Guide, this spacing complies with the Council's minimum separation distance guideline to ensure that the outlook of the neighbouring properties will be maintained. The orientation of the extension to the north of the neighbouring properties affected would ensure that the shadow cast by the extension does not fall onto their gardens and living spaces during the course of the day and, therefore, the light enjoyed by the neighbour's would be adequately maintained. There are no side windows directly overlooking the neighbouring properties whilst there would oblique views only from the rear and front first floor windows. Whilst the relationship proposed is tight it is compliant with guidance and can, on balance, be supported.

6.4 ***The scale and appearance of the extension will be out of character with other properties***

**Response**

Officers determined under the previously refused application that no harm to the character and appearance of the area was found. The design and appearance of the proposed extension replicates the form of the existing terrace, including the doubling in width of the ground floor front projection.

6.5 ***The ownership of the land adjacent to the southern boundary of the property is still under dispute with the council. The land has been fenced off purposefully by the applicant to make it look like they have a bigger site to accommodate the extension. The rear boundary line shown on the ordnance survey plan does not match the land registry plan correctly. The development would be contrary to property covenants which prevents significant exterior change***

**Response**

The applicant's site boundary line does not include the disputed strip of land to the side purported to be a right of way, therefore the applicant is not proposing development outside of their red line and land ownership. The dispute over land ownership falls outside powers of the planning system. The accuracy of the site boundary line at the rear of the property does not affect landowner's rights to dispute the land ownership outside the planning application process nor does it prejudice the decision of the application given the location of the proposed extension at the other end of the plot. The covenant restriction is not a consideration and is enforced separately to the planning process.

6.6 ***The extension will further increase the noise disturbance caused by the applicant.***

**Response**

There would be no noticeable noise increase from the activities associated with the property as there will no intensification of its use given that it will still be occupied by a similar size family household. The Council has separate

enforcement powers to enforce against noise disturbance deemed as a statutory nuisance so this issue can be dealt with under separate legislation to the planning process.

- 6.7 ***Majority of the properties within the neighbourhood are large and unique. No loss of privacy or outlook to the neighbour's garden. The construction of the extension will not affect parking on the road as the applicant has two spaces for vehicles on his drive***

**Response**

Noted.

- 6.8 ***Loss of property value***

**Response**

This is not a material planning consideration.

- 6.9 ***Create a precedent for land grab of woodland adjacent to no. 13 Fitzroy Close and further development/removal of trees***

**Response**

This parcel of land does not form part of the application site so it does not form a material consideration in the assessment of this application. This application should be assessed based on the proposal made to the Council.

**Consultation Responses**

- 6.10 **SCC Tree team** – No objection subject to conditions

**7.0 Planning Consideration Key Issues**

- 7.1 The key issues for consideration in the determination of this planning application are:

- Design and effect on character;
- Residential amenity;
- Parking highways and transport

- 7.2 **Design and effect on character**

- 7.2.1 The previous application was not considered harmful to the character and appearance of the area and was refused, instead, because of the impact on residential amenities. Although the extension is not strictly subservient in size and appearance to the host dwelling in its ridge height and set back from the front building line, officers had already found under the previously refused application that this was not harmful in appearance to this style of gabled modern terraced house and the street scene. It still found under the current application that the design and appearance of the proposed extension replicates the form of the existing terrace in a sympathetic manner, terminates the end of the terraced row at the same ridge height, and follows the original front building line. This includes the doubling in width of the ground floor front projection which is already a feature seen at no. 2 and 3 Fitzroy Close within the same terrace.

- 7.2.2 The Tree Officer commented under the previous application that there are no trees immediately affected by the proposal however there are trees, protected by The Southampton (Lingwood - Bassett Avenue) Tree Preservation Order 1958, in the neighbouring property and to the rear of the garden. To ensure their

protection they require a Tree survey and Tree Protection plan to restrict all construction traffic and storage from the root protection areas (RPAs). They recommend that these measures can be secured by condition. With the submission of the new application, the impact of the proposal on these trees has not materially changed, albeit improved by reducing the size of the extension, and therefore these comments are still valid and the suggested conditions form part of this recommendation.

### 7.3 Residential amenity

- 7.3.1 Although the visual changes are perceptibly minor since the previously refused application, the reduction in the width of the 2 storey side extension increases the gap between side gable of the proposed extension and the rear elevation of the neighbouring properties (to the south) to 12.5m (it was previously 11.3m). As set out in paragraph 2.2.7 of the Council's Residential Design Guide, this spacing complies with the Council's minimum separation distance guideline to ensure that the outlook of the neighbouring properties will be maintained. This separation distance is not uncharacteristic of the local pattern of development. Other houses built within this tightly spaced modern estate in Fitzroy Close already have a tighter spacing of 10.5m between side gabled elevation of no. 19 Fitzroy Close and the rear elevations of the neighbouring properties no. 13 to 15 Fitzroy Close.
- 7.3.2 The height and spacing of the ground floor front element remains the same, however, officers had not raised its impact as a particular concern under of the previous refusal. Although it has a tall eaves and gabled end, its single storey height combined with the 9.5m spacing from the rear elevation of no. 6 Fitzroy Close, and the enclosure on their own garden from the existing garage at 5 Fitzroy Close, does not create an undue sense of enclosure to the neighbouring gardens and living spaces to the south.
- 7.3.3 The orientation of the proposed extension to the north of the neighbouring properties affected would ensure that the shadow cast by the extension does not fall onto their gardens and living spaces during the course of the day and, therefore, the light enjoyed by the neighbour's would be adequately maintained. There are no side windows directly overlooking the neighbouring properties, whilst there would only be oblique views from the rear and front first floor windows which would not cause any harmful loss of privacy. The front bedroom ensuite window can be made obscure glazed given the non-habitable nature of the room. As such, the revised application is considered to be compliant with saved Local Plan Review Policy SDP1(i).

### 7.4 Parking, highways and transport

- 7.4.1 The proposed expansion to the accommodation of the existing family home would not cause further pressure to local street parking capacity as the property will still be occupied in the same manner as a 3 bedroom family house. As such, there would not be any significant increase in parking demand given the same household size. Furthermore, the impact from the proposal would not adversely affect highways safety.

## 8. Summary

- 8.1 Following the submission of amended plans to further reduce the width of the two-storey side extension, the previous reasons for refusal raised by officers have been successfully addressed with regards to the concerns of the visually oppressive relationship that the proposed two storey extension had with the neighbouring occupiers. The design of the proposed extension has been found to be in keeping with the character and appearance of the local area, and the siting of its mass and bulk would adequately maintain the residential amenity of the neighbouring occupiers.

## 9. Conclusion

- 9.1 It is recommended that planning permission be granted subject to the conditions set out below.

### Local Government (Access to Information) Act 1985

### Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (d) (g) 4.(f) (vv) 6. (a) (b) 7. (a)

### **SB for 14/01/19 PROW Panel**

### **PLANNING CONDITIONS**

#### **1. Full Permission Timing Condition (Performance)**

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

#### **2. Materials to match (Performance Condition)**

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the extension hereby permitted shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing

#### **3. No other windows or doors other than approved (Performance Condition)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order), no windows, doors or other openings, other than those expressly authorised by this permission, shall be inserted in the south facing side elevations of development hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To protect the amenities of the adjoining residential properties.

#### **4. Obscure Glazing (Performance Condition)**

The first floor ensuite window in the west facing elevation of the hereby approved development, shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied. The windows

shall be thereafter retained in this manner.

Reason: To protect the amenity and privacy of the adjoining property.

**5. Hours of work for Demolition / Clearance / Construction (Performance)**

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of:

Monday to Friday                      08:00 to 18:00 hours

Saturdays                                09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

**6. Tree Retention and Safeguarding (Pre-Commencement Condition)**

All trees to be retained pursuant to any other condition of this decision notice shall be fully safeguarded during the course of all site works including preparation, demolition, excavation, construction and building operations. No operation in connection with the development hereby permitted shall commence on site until the tree protection as agreed by the Local Planning Authority has been erected. Details of the specification and position of all protective fencing shall be indicated on a site plan and agreed with the Local Planning Authority in writing before any site works commence. The fencing shall be maintained in the agreed position until the building works are completed, or until such other time that may be agreed in writing by the Local Planning Authority following which it shall be removed from the site.

Reason: To ensure that trees to be retained will be adequately protected from damage throughout the construction period.

**7. No storage under tree canopy (Performance)**

No storage of goods including building materials, machinery and soil, shall take place within the root protection areas of the trees to be retained on the site. There will be no change in soil levels or routing of services through root protection zones. There will be no fires on site within any distance that may affect retained trees. There will be no discharge of chemical substances including petrol, diesel and cement mixings within or near the root protection areas.

Reason: To preserve the said trees in the interests of the visual amenities and character of the locality.

**8. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

*Note to Applicant*

*The amended scheme hereby approved shows a separation distance of 12.5 metres from the rear face of the neighbours at 5-8 Fitzroy Close to the side wall of the extension hereby approved. It is on this basis that planning permission has been secured and this distance should be checked on site as part of the construction phase.*



**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP12	Trees

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Parking Standards SPD (September 2011)  
Bassett Neighbourhood Plan (July 2016)

Other Relevant Guidance

The National Planning Policy Framework (2019)

19/01442/FUL/36489



**DETERMINATION OF APPLICATION**

**TOWN AND COUNTRY PLANNING ACT 1990**

**Town and Country Planning (Development Management Procedure) (England) Order 2015**

CMCdesign  
Chris McDermott  
The Studio  
23 Malibres Road  
Chandlers Ford  
SO53 5DS

In pursuance of its powers under the above Act and Order, Southampton City Council as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

**FULL APPLICATION - REFUSAL**

**Proposal:** Erection of a single storey front and two storey side extension

**Site Address:** 4 Fitzroy Close, Southampton, SO16 7LW

**Application No:** 19/01442/FUL

For the following reason(s):

**01.REASON FOR REFUSAL: Impact on Residential Amenity**

The proposed two storey side extension would, by virtue of its proposed size, design and siting in close proximity to the southern boundary, result in a visually oppressive and overbearing impact on the residential amenities of the neighbouring occupiers of No. 6, 7 and 8 Fitzroy Close. The proposal is therefore considered to be contrary to saved Policies SDP1(i) and SDP9(v) of the City of Southampton Local Plan Review (Amended 2015) and Policy CS13 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015) with further reference to the provisions of sections 2.2.1-3 and 2.2.7 of the Southampton City Council Residential Design Guide Supplementary Planning Document (2006), and Policy BAS 4 of the Bassett Neighbourhood Plan (2016) and the guidance contained within the National Planning Policy Framework 2019.

Note to Applicant

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

A handwritten signature in black ink, appearing to be the initials "J.M.D." or similar, written in a cursive style.



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**LOCATION PLAN SCALE 1:1250**



**INDICATIVE**



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**SITE LAYOUT SCALE 1:500**

This plan is a site layout plan for the proposed development and is not a site plan. It is a preliminary plan and is not intended to be used for any other purpose. It is not a final plan and is not intended to be used for any other purpose. It is not a final plan and is not intended to be used for any other purpose.




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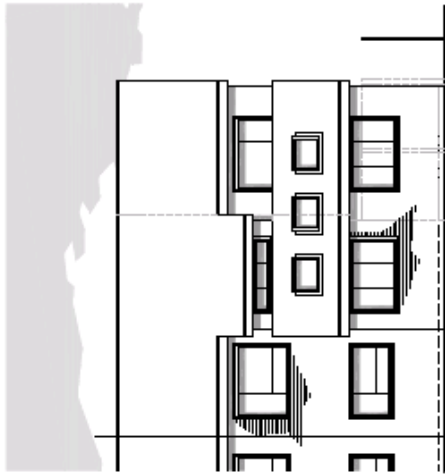
**address** 1100/1102 St Albans Road, St Albans, VIC 3023  
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**website** www.chicdesign.com.au

**scale** 1:500 (as shown)



**PROPOSED MATERIALS -**

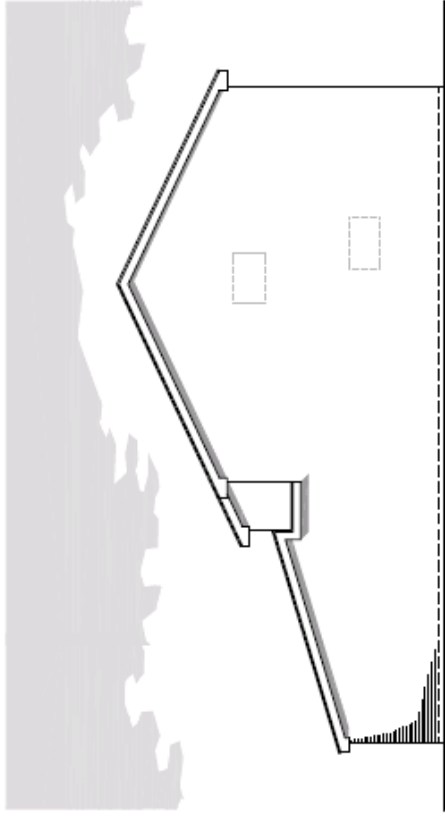
-  walls • brick  
to match existing
-  roof • lead  
to match existing
-  windows / doors • white  
to match existing



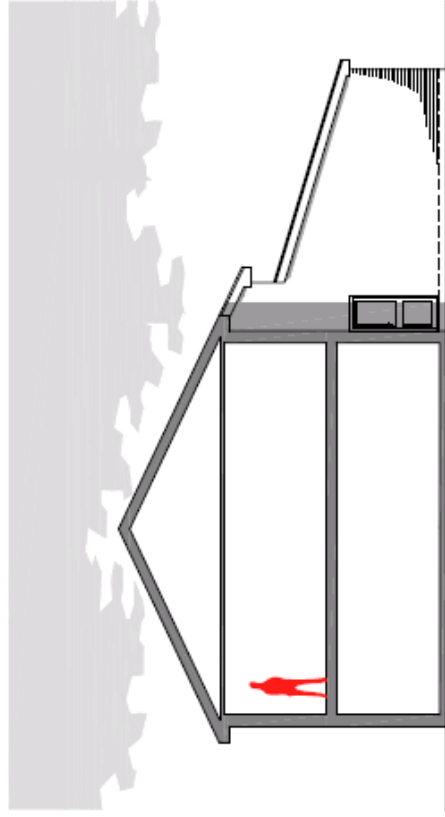
**PROPOSED FRONT ELEVATION (facing west)**  
SCALE 1:100



**PROPOSED REAR ELEVATION (facing east)**  
SCALE 1:100




**PROPOSED SIDE ELEVATION (facing south)**  
SCALE 1:100



**PROPOSED SIDE ELEVATION (facing north)**  
SCALE 1:100

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