



Appeal Decision

Site visit made on 21 March 2025

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Appeal Ref: APP/N4205/W/24/3354177

9 Tonge Fold Road, Bolton BL2 6AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Tom Blair against the decision of Bolton Metropolitan Borough Council.
- The application Ref is 17648/24.
- The development proposed is residential development.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Tom Blair against Bolton Metropolitan Borough Council. An application for costs was also made by Bolton Metropolitan Borough Council against Mr Tom Blair. These applications are the subject of separate decisions.

Preliminary Matters

3. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties were given the opportunity to comment on the implications of the revised Framework and I have taken into account any comments raised.
4. In addition to the plans considered by the Council, the submitted appeal documents include a new set of proposed plans¹ showing an alternative design for the proposed apartment building. The appellant has provided very limited information as to the reasons why these alternative plans have been submitted with the appeal.
5. Nevertheless, the appeal process should not be used to evolve a scheme and the alternative scheme provided is fundamentally different to that considered by the Council. Furthermore, from the information before me neither the Council, nor the interested parties, have had an opportunity to comment on this alternative scheme.
6. Consequently, having regard to case law² and the procedural guidance³, I conclude that it would not be fair or reasonable to determine the appeal against this alternative set of plans, as to do so would prejudice interested parties. As such I have determined the appeal against the plans considered by the Council when it made its decision.

¹ PL K1092/01 Rev C; PL K1092/02 Rev D; PL K1092/03 Rev D; PL K1092/04 Rev D; PL K1092/08 Rev C and PL K1092/09 Rev C.

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

³ *Planning Inspectorate Procedural Guide: Planning Appeals – England* (updated 17 September 2024)

Main Issues

7. The main issues are the effect of the proposed development on:
- the setting of the nearby listed building of the Church of St Chad, and the character and appearance of the area in general;
 - the living conditions of neighbouring occupiers, with particular regard to outlook, privacy and car parking; and
 - the living conditions of future occupiers, with particular regard to outdoor amenity space.

Reasons

Character and appearance

8. The existing dwelling was formerly a vicarage associated with the Church of St Chad (the church) which is situated on the opposite side of Longworth Street. The church is a Grade II Listed Building and in determining this appeal I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), to have special regard to the desirability of preserving its setting.
9. The existing dwelling is centrally located on the appeal site and due to the natural topography of Tonge Fold Road, which rises to the south, the appeal property occupies a raised and prominent position when viewed from the north. The surrounding area is largely residential, consisting of a mix of mainly traditional terrace properties and more recently constructed semi-detached dwellings. The predominantly two-storey scale of residential properties within the immediate surroundings allows the church, and in particular its tall campanile, to be the dominant building within the street scene.
10. The church, built c1937, is of a modern style with Scandinavian influences and is constructed in red brick with a high blue brick plinth. It is set back from the highway of Tonge Fold Road by a modest sized grassed area. The most distinctive characteristic of the Church is its tall campanile, positioned towards the front corner. As a result of its height in comparison to the surrounding buildings this tower is not only a defining characteristic of the street scene, but the wider area in general, with views of the top section of this tower afforded from long distances. I find this distinctive campanile is a feature of significant architectural interest. It also has communal significance to the wider area.
11. The existing dwelling's central location within the appeal site provides a significant gap between the built development on the appeal site and the church. The scale of the development on the appeal site and the space around the existing building footprint make an important contribution to the spatial setting of the listed church, and hence its significance. It also allows views of a significant portion of the campanile when observed from the western side of Tonge Fold Road to the north of the appeal site, including its junction with Bury Road (A578). Furthermore, whilst the existing dwelling is a prominent building on Tonge Fold Road, due to its elevated position above street level when viewed from the north, its two-storey scale ensures that the church remains the most dominant and prominent building within the street.

12. The appeal proposal seeks to demolish the existing dwelling and its detached garage and replace them with an apartment block. The proposed apartment block would have a central section that is three-storeys in height, with two-storey sections either side. However, due to the change in land levels the northern two-storey section would include a basement level below ground floor level. Consequently, when viewed from the north, this northern section would appear as a three-storey element and the central three-storey section beyond would have the appearance of a four-storey building.
13. Additionally, the footprint of the proposed apartment block would occupy the majority of the appeal site and bring the built development closer to the listed church. The apartment block would also be sited closer to the back of the footway on Tonge Fold Road than the existing dwelling on the site and would also sit forward of the single-storey front section of the church. The front elevation of the three-storey element also includes forward projecting balconies and a projecting screen from ground floor level up to eaves height.
14. A combination of this forward siting and projecting screen, along with the above-mentioned scale and height of the proposed building, would obscure views of a significant section of the church's campanile from public vantage points to the north. Whilst I recognise that the top section of the campanile would still be visible above the proposed apartment block, the obscuring of views of the lower section of this campanile from locations to the north along Tonge Fold Road, including from the junction with Bury Road, would diminish the legibility of this important architectural element in the streetscene and thereby harm the setting of this neighbouring listed building.
15. In coming to the above view, I note the appellant's comments that the setting of the listed church has altered since it was originally built and observing only the top of the campanile will intrigue and invite the viewer to proceed further and nearer the church in order to be able to see more of the campanile and of the church itself. However, I am not persuaded by these arguments and consider that the obscuring of views of the lower section of the tower by the proposed building would diminish its architectural significance.
16. Furthermore, the proposal includes a hipped roof design, with flat roof sections, and modern flat roof dormers in the side and rear elevations. The immediate surrounding area is predominantly characterised by houses with pitched roofs. I also acknowledge the Church has a variety of roof designs on its different sections; however the main section has a pitched roof. Dormer extensions are not a feature of the pattern of development in this area.
17. Overall, I find that the siting, height, design and footprint of the proposed building would be out of keeping with other residential buildings within the area. Additionally, partly due to its elevated position when viewed from the north, the proposal would undermine the prominence of the listed building in the street scene, which given its function, is an important part of its architectural significance. This would again cause harm to the significance of this neighbouring designated heritage asset, as well as harming the character and appearance of the area in general.
18. The Framework describes heritage assets as an irreplaceable resource, that should be conserved in a manner appropriate to their significance, so that they can be

enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset or from development within its setting.

19. In view of all the above, the proposal would harm the special architectural and historic significance of the listed building, and I give this harm considerable importance and weight. It would not preserve its setting. It would also harm the character and appearance of the area.
20. In terms of the Framework, the harm to the significance of the listed building would be 'less than substantial'. Therefore, in accordance with paragraph 215 of the Framework this harm must be weighed against the public benefits.
21. The appeal site is located within a sustainable location. The delivery of 18no. apartments on this site represents an efficient use of land and would make a positive contribution to the Council's housing land supply. Given the Council has confirmed that it can currently only demonstrate a 3.7-years supply of housing, I attribute moderate weight to these benefits.
22. Economic benefits would arise from the proposal, including contributions to the local economy during the construction phase of the development. These however would be short-term benefits. Further economic benefits would arise from additional spending in the area by future occupants of the apartments. Cumulatively, given the scale of development I attach moderate weight in respect of the economic benefits.
23. The proposal would provide an opportunity to increase the overall biodiversity of the site, including the provision of new vegetation planting, bee bricks and both bird and bat boxes. However, given the scale of the development site and the level of landscaping proposed, I attribute this matter limited weight in favour of the appeal.
24. Within the submitted appeal documents the appellant has also suggested a willingness to make a financial contribution towards the repair of the campanile. However, I have been provided with no information as to the works required to the tower, the amount of money it would cost to repair or the amount of contribution the appellant would be willing to make, nor indeed, whether this would meet the tests for the seeking of a planning obligation. Consequently, I can attribute no weight to this matter as a public benefit.
25. In view of my findings above, whilst there are public benefits that weigh in favour of the appeal scheme, the public benefits arising from the appeal proposal would not outweigh the harm I have identified. Thus, the proposal would conflict with the Framework.
26. I conclude that the proposal would not preserve the setting of the Grade II listed Church of St Chad to the desirability of the preservation of which I am required to have special regard. The proposal would also harm the character and appearance of the area in general.

27. The proposal therefore conflicts with Policies JP-P1 and JP-P2 of the Places for Everyone Joint Development Plan (2024) (PfE Plan) and Policy RA1 of Bolton's Core Strategy Development Plan Document (2011) (CSDPD). These policies together require, among other things, that development respects and acknowledges the character and identity of the locality in terms of design, siting, size and scale; conserve and enhance the distinctive character of the existing physical environment; ensure that development has particular regard to massing; that the heritage significance of a site or area is considered in accordance with national policy; and that developments conserve, sustain and enhance heritage assets and their settings. The proposal would also fail to satisfy the requirements of the Act and the relevant sections of the Framework.

Neighbouring occupiers

28. The first-floor window in the side elevation of 10 Dunstan Street lights a bedroom. The two-storey section of the proposed block, standing around 9m from this window, would have an intrusive effect on the outlook from the bedroom. This would make for unacceptably poor living conditions for its occupiers.
29. The openings at the back of the proposed block would face towards the back windows and the back yards of the houses on Dunstan Street and Longworth Street. I appreciate that in the built-up area there is a commonly accepted degree of mutual overlooking between dwellings, and these back yards are already overlooked. However, the first and second floor balconies of the proposed block would project the opportunity for overlooking unacceptably close to the back yards of the dwellings at 9 Longworth Street and 10 Dunstan Street, resulting in a harmful loss of privacy for the occupiers of these houses.
30. Six car spaces would be provided in the site, in accordance with CSDPD Policy P5.5 and the Council's parking standards, which here limits parking to a maximum of eighteen spaces. The site has good access to local shops and services on foot and by bike, as well as good public transport connections to the wider area. I also noted at my visit that substantial lengths of Tonge Fold Road, as well as the nearby streets of Dunstan Street, Longworth Street and Bass Street had empty parking space.
31. I appreciate that parking demand may fluctuate. I have seen photographs showing cars parked on Dunstan Street at night and on Bass Street during the day. However, these photographs show only a partial section of these streets and limited detailed technical information in respect of the existing parking pressures in this area has been provided by any party.
32. Consequently, given the sustainable location of the appeal site, my observations of the existing on-street parking situation, and the lack of any detailed technical information to demonstrate otherwise, I conclude that the provision of off-street parking below the maximum standard would not have a harmful impact on the living conditions of neighbouring occupiers.
33. In view of all the above, the proposal would not have a harmful impact on the living conditions of neighbouring occupiers by unduly adding to on-street parking stress. However, I conclude that the proposal would have an unacceptable impact on the living conditions of neighbouring occupiers by way of a loss of outlook and privacy. The proposal therefore conflicts with Policy CG4 of the CSDPD where it seeks, among other things, to ensure that new development is compatible with surrounding

land uses and occupiers, protecting amenity and privacy. The development is also contrary to paragraph 135(f) of the Framework which seeks to ensure developments provide a high standard of amenity for existing users.

Future Occupiers

34. The Council's General Design Principles Supplementary Planning Document (Design SPD) states that in relation to apartments, private sitting-out areas should take the form of either a minimum balcony area of 5sqm for each apartment, or an adequately screened communal area with a minimum provision of 18sqm per apartment.
35. The appeal proposal would provide a specific outdoor patio area for each of the ground floor apartment (nos. 1 – 6). Whilst these patio areas would not measure 5sqm in area, the proposal includes additional landscaped areas at ground floor level, adjacent to these patio areas which occupiers of the ground floor units could utilise. As such the proposed outdoor amenity space for occupiers of the ground floor units is considered acceptable.
36. At first and second-floor levels, proposed apartments no.13 and no.18 would each be provided with two balconies and according to the Council's submission these balconies would cumulatively provide more than 5sqm of outdoor amenity space for occupiers. Proposed occupiers of apartments no.13 and no.18 would therefore also be provided with sufficient outdoor amenity space.
37. However, the other six proposed apartments at first-floor level⁴ would each be provided with a balcony measuring, according to the Council, 3.3sqm. The appellant has not disputed the Council's measurement of these balcony areas. As such, these six apartments would be provided with balconies that do not adhere to the recommendations of the Design SPD and I find the provision of 3.3sqm balconies would not provide sufficient private outdoor amenity space for future occupiers of these apartments. Furthermore, four second-floor apartments⁵ would be provided with no balconies.
38. As mentioned, the proposal does include some small, landscaped areas at ground floor level. However, given the proximity of these landscaped areas in relation to the openings and patio areas of the ground-floor apartments, I find it unlikely that residents of the first and second-floor apartments would use these landscaped areas as amenity space as they would be afforded limited privacy within them.
39. The appellant has also made reference to Leverhulme Park which is a short walk from the appeal site. Whilst I accept that this park would provide future occupiers with a place to visit, it is a public park and therefore it would not provide private outdoor amenity space. As such, I do not find that the proximity of Leverhulme Park outweighs the harm arising from the under provision of outdoor amenity space for a number of future occupiers within this apartment block.
40. I conclude that the proposal would not provide sufficient living conditions for all future occupiers, by way of a lack of outdoor amenity space provision. The proposal therefore conflicts with CSDPD Policy CG4 where it seeks, among other things, to ensure that new development protects amenity. The proposal is also

⁴ Nos.7 – 12 (inclusive)

⁵ Nos.14 – 17 (inclusive)

contrary to paragraph 135(f) of the Framework which seeks to ensure developments provide a high standard of amenity for future users.

Other Matters

41. My attention has been drawn to a development approved by the Council at St Georges Road and the appellant is of the opinion that this approved development has a greater impact on, and results in greater harm to, its neighbouring listed building at Claremont Church than the appeal scheme does to the listed Church of St Chad. The appellant has also made reference to an approved development at Chorley Street which in their words has “*significantly less external amenity space and no balcony provision*” when compared to the appeal scheme.
42. Whilst each case is determined on its own individual merits, I have been provided with very limited information in respect of these other approved developments referred to by the appellant. As such, I am not aware of the specific circumstances and can therefore draw no direct comparisons between the appeal scheme and these other developments. Consequently, I attribute very limited weight to these other referred to developments in my consideration of the appeal proposal.
43. I acknowledge that the appellant engaged in pre-application discussions with the Council prior to submission of the planning application and made amendments to the proposal because of these discussions. I was not however privy to these pre-application discussions and in any case, it is my role to determine the appeal on the basis of the information and evidence before me.
44. I also appreciate the appellant’s frustration that the planning application was refused before an amended proposal was submitted to the Council. This however is not a matter which alters my consideration of the appeal scheme before me.
45. Whilst this was not identified by the Council, the windows of apartment no.12 on the first floor, and apartment no. 17 on the second floor of the proposed block, would appear to overlook the first-floor window of 10 Dunstan Street. Were I not dismissing the appeal I would have sought the views of the main parties on this matter.
46. Whilst not included as a reason for refusal on the decision notice, the Council has drawn my attention to the need for a planning obligation to secure the required affordable housing provision and the future management and maintenance of the proposed underground water attention tank. No planning obligation has been provided by the appellant and as I am dismissing the appeal on the main issues, I have not pursued this matter further.

Planning Balance and Conclusion

47. As mentioned previously the Council have confirmed that it can currently demonstrate a 3.7-years supply of housing and consequently paragraph 11(d) of the Framework applies. However, for the reasons detailed within this decision, I have found that the public benefits of the development would not outweigh the harm that would be caused to the significance of the designated heritage asset of the Church of St Chad. This provides a strong reason for refusing the development in accordance with paragraph 11(d)(i) of the Framework. As such, the proposal does not benefit from the presumption in favour of sustainable development set out in the Framework.

48. Overall, I conclude that the proposal would harm the setting of the listed Church of St Chad, as well as harming the character and appearance of the area in general. The proposal would also result in an unacceptable impact on the living conditions of neighbouring occupiers by way of loss of outlook and privacy, and would fail to provide sufficient living conditions for all future occupiers, by way of a lack of outdoor amenity space provision. The proposal therefore conflicts with the development plan taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, and having regard to all matters raised, the appeal is dismissed.

R Major

INSPECTOR