



Appeal Decision

Site visit made on 5 November 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 December 2025

Appeal Ref: APP/N4205/W/25/3372601

4 Clarebank, The Hetlands, Heaton, Bolton BL1 5AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73a of the Town and Country Planning Act 1990 (as amended), (the Act), for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Musgrove against the decision of Bolton Council.
 - The application Ref is 17458/24.
 - The application sought planning permission for 'Erection of 4no. detached houses with integral garages together with formation of vehicular access and related works (revised scheme)', without complying with a condition attached to planning permission Ref 01154/17, dated 11/08/2017.
 - The condition in dispute is No 10 which states that: The development hereby permitted shall be carried out in complete accordance with the following approved plans:
 - Proposed Site Plan, Drwg No. 12 Rev C, dated 27/07/17
 - Proposed Site Layout 2 of 2, Drwg No. 08 Rev A, dated 14/09/16
 - Junction Details, Drwg No. 1, dated March 2017
 - General Arrangement of House Type 2: Plots 1 & 3, Drwg No. 17, Rev A; dated 26/07/17
 - General Arrangement of House Type 1: Plots 2 & 4, Drwg No. 16, Rev A; dated 26/06/17
 - Landscape and Tree Mitigation Proposals, Drwg No. 2070_03, October 2016
 - Revised Boundary Details to be read in conjunction with Landscape and Tree Mitigation Proposals, Drwg No. 2070_03, October 2016 (scanned to file 03/15/16).
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has been carried out and therefore, this appeal is being considered under section 73a of the Town and Country Planning Act 1990 (as amended).
3. In determining this appeal I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA). This requires special regard to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
4. I have also had regard to section 66(1) of the LBCA, which requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5. An ownership certificate (notice 1), was submitted with the appeal form along with other essential documents, and the appeal was made valid. During the appeal process and following representations from interested parties, notices were served on an additional relevant owner, as confirmed by them. I am satisfied therefore, that for the purposes of this appeal, the parties have been able to make representations about the effect of the development in the interests of fairness, and no party has been prejudiced.

Background and Main Issues

6. Planning permission was granted in 2017 for the erection of 4 detached houses on the appeal site, with integral garages and vehicular access¹ (the planning permission). Four dwellings have been built, not in accordance with the approved plans. This appeal relates to one of those dwellings, 4 Clarebank, and the site access.
7. In order to regularise the alterations made to the dwelling and the wider appeal site, the appellant seeks to vary the list of plans imposed by condition 10 of the planning permission. The alterations include changes to the dwelling's siting, height, design, rear external area and re-siting of the gateposts from the highway access point.
8. The main issues are whether varying the condition in the manner proposed, would result in development that would be acceptable in planning terms, having regard to its effect on the character and appearance of the area, including Chorley New Road Conservation Area.

Reasons

9. The appeal site is within Chorley New Road Conservation Area (the CA); a designated heritage asset. As a whole, the CA is significant for its large Victorian and early 20th Century houses set within substantial grounds. On Chorley New Road in particular, the access points are marked by gateposts, generally of an age that reflects the original dwellings. Well-established trees form an intrinsic element of the street scene. In many cases the trees partially conceal dwellings that are set back deeply within their gardens, such that from the street gateposts are the main visual reference of their size and historic social status.
10. Markland Hill to the west of the appeal site, rises uphill from Chorley New Road, and has a less formal suburban character. In the vicinity of the appeal site, it is tree-lined with low-stone walling abutting the highway. It includes modern buildings of late 20th Century and early 21st Century appearance, with few main elevations fronting the road.
11. During my site visit I saw historic stone gateposts positioned at the site junction between Clarebank and Chorley New Road. The Council advises that they have recently been sited back in their original position. They are part of the defining features of this part of the CA, denoting a historic entrance to a former substantial plot.
12. The proposal seeks the relocation of the original gate posts far back along Clarebank, such that they would not form part of the access point on Chorley New

¹ 01154/17

Road². Nor would they be visible from that location. Their proposed position would erode the appreciation of the entrance to Clarebank as a former, large residential plot. Harming the understanding of the historic development of the area. In so doing it would fail to preserve the character or appearance of the Conservation Area and would undermine its significance.

13. The main part of the appeal site is roughly rectangular with a significant tree group around its periphery³. This forms a tightly defined and extensive, sylvan enclosure, with spaciousness between the site and surrounding dwellings.
14. In common with the other three dwellings, No. 4 as constructed, is taller, with a different design than that originally granted planning permission, and in a slightly altered position. The windows on the front elevation are large and vertically proportioned, emphasising the building's height. As does the elongated window on the side elevation that extends over three floors.
15. No. 4 together with the adjacent three dwellings is taller than surrounding built form. Nevertheless, it is within a woodland setting, and with significant space around it. As such, there is distinct visual separation between No. 4 and surrounding built form, and as such the scale of No. 4 does not jar with that of nearby housing. Furthermore, it adheres to the general character of the CA, of large houses within substantial plots.
16. The rear of the dwelling, and its garden is elevated above Markland Hill, however there is a significant set back from the roadside boundary, providing space and visual relief. The contemporary design of the dwelling broadly reflects that of the apartment complex to the west, and the church community buildings to the south. Furthermore, the orientation of the dwelling, and retention of the existing low stone wall, boundary treatment is harmonious with the character and appearance of this part of Markland Hill.
17. The elongated side window in No. 4 faces south, and when hall and stair lights are on, it would be lit internally across three floors of the building. However views towards this elevation are obscured by tree groupings and its oblique angle to Markland Hill. It also shares contemporary glazing characteristics with the apartment complex on the opposite side of Markland Hill. For these reasons it would not have a harmful effect on the character and appearance of the area.
18. Christ Church is a grade II listed building and lies to the south of the appeal site. Built circa 1896, its significance is predominantly derived from its architectural and historic interest, and its communal value through its continued use as a church and community centre.
19. Christ Church, is most obviously appreciated when viewed from Chorley New Road and from within its own landscaped grounds. To its north are associated community buildings, and a hard-surfaced car park. These modern features, together with the intervening distance and trees, provide physical separation between No. 4 and the church. No other connection between it and the appeal site relating to its significance is apparent or has been brought to my attention. As such I am satisfied that the development does not have a harmful effect on how the significance of the listed building is appreciated.

² 'As Built Proposed Site Plan' Drwg. No. PL K1110 01C.

³ Tree Preservation Orders Ref: 5, Bolton (Heaton) 1960

20. Overall, I have found harm only in relation to the relocation of the gate posts. The degree of harm to the significance of the CA would be less than substantial, at the low end of a scale. This is due to the extent of development in relation to the wider CA. Nonetheless, this harm attracts considerable importance and weight.
21. It is therefore necessary for me to weigh this harm against the public benefits of the scheme as required by paragraph 215 of the Framework. I am mindful of economic benefits associated with the provision of four dwellings. However, much the same benefits would have been generated had the development been built in accordance with the original planning permission. No additional public benefits have been advanced, including in relation to the gatepost relocation. Therefore, public benefits do not outweigh the harm caused to the significance of the designated heritage asset.
22. Due to the proposed relocation of the gateposts, I therefore conclude that varying the condition in the manner proposed would result in development that harms the character and appearance of the area, including by failing to preserve or enhance the character or appearance of Chorley New Road Conservation Area. This would conflict with the relevant provisions of Policy OA4 of the Local Development Framework, Bolton's Core Strategy Development Plan Document, and Policies JP-P1 and JP-P2 of the Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan. Amongst other things, these policies require the conservation and enhancement of the character of areas including conservation areas, having regard to national policy.

Other Matters

23. Taking account of the siting and orientation of No. 4 relative to other neighbouring occupiers, I am satisfied that privacy would be safeguarded. I note concerns in respect of existing boundary treatments. In common with the Council, I am satisfied that the proposed boundary treatments⁴ by way of their materials appearance and height, adhere to the character of the area.
24. Concern has also been raised in respect of the removal of a previous turning circle. However there is nothing before me to indicate that the area fronting the dwellings, by way of the revised siting of the dwellings, cannot be used for emergency vehicles or general turning, and given its size I consider that it is adequate for this purpose. Nor is there evidence that access must rest on Markland Hill for fire safety regulations. The Council has also not raised an objection in this regard. Accordingly, I attribute limited weight to this matter.
25. The appellant points out that Council officers recommended the application for approval. However members of the local planning authority Committee are not duty bound to follow the advice of their officers.
26. Concerns have also been raised in respect of the potential to access the development from Springlawn. This would be a private matter that falls outside of the scope of this appeal.

⁴ 'Proposed Boundary Treatment' Drwg. No. PL K1112/20

Conclusion

27. For the reasons outlined above, I find that the development would conflict with the development plan taken as a whole, and there are no material considerations that would lead me to a different conclusion. Therefore, I conclude that the appeal should be dismissed.

E Heron

INSPECTOR