



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/25/3372690

5 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 Andrew Beardsworth against the decision of Bolton Council.
 - The application Ref is 19486/24.
 - 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, 5 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; and
 - its effect on the living conditions of neighbouring occupiers with particular regard to privacy.

Reasons

Character and appearance

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 which 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

¹ 01154/17

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 Road², nor would they be visible from that location. Their proposed position would erode the appreciation of the entrance to Clarebank as a former 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 CA 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. 5 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. 5 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. 5 and surrounding built form, and as such the scale of No. 5 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. 5 faces south, and when hall and stair lights are on, it would be lit internally across three floors of the building. The side window faces 4 Clarebank, with a narrow intervening gap, such that vantage points towards it from outside the site would be extremely limited.
18. Christ Church is a grade II listed building and lies to the south of the appeal site. Built circa 1896, its significance is 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, and 4 Clarebank, together with the intervening distance and trees, provide significant physical separation between No. 5 and the church. No other connection between it

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

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

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.

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 previous planning permission. No additional public benefits have been advanced, including in relation to the gatepost relocation. Therefore public benefits do not outweigh the harm 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 (Core Strategy), 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 conservation areas, having regard to national policy.

Living conditions

23. The balcony on the rear elevation is positioned at first floor. It extends across the entire rear elevation with enough space for outdoor recreation, such as sitting out. The planning permission is limited to a Juliet balcony style arrangement in front of the centrally positioned French doors, with no useable external space.
24. Due to the close arrangement of the dwellings and the height and projection of the balcony, much of the private garden of No. 4 is overlooked. Furthermore, due to the siting of the appeal property and the length of the balcony extending to the side, it would be possible for users of the balcony to look back into the rear windows of No. 4, further eroding privacy.
25. A 1.8 metre high screen on the south side of the balcony would prevent overlooking of the rear windows of No. 4 and would limit the extent of overlooking to only the rear portion of that neighbouring garden. That relationship would be more closely aligned with the extent of overlooking within the approved scheme. Such a screen can be secured by condition, and I note the Council has suggested one. In this manner the proposal would not lead to harmful loss of privacy to the occupiers of No. 4.
26. Owing to the position of No. 6, further back within its plot, at an oblique angle to No. 5, the balcony would not harmfully overlook the garden or windows of that dwelling. This is also the case having regard to the approved position of No. 6.

Moreover, given the distance from the balcony to the site periphery, trees, and the additional distance to the closest dwellings, opposite on Markland Hill, the balcony does not harm the living conditions of these neighbouring occupiers by way of a loss of privacy.

27. Therefore, I conclude that varying the condition in the manner proposed, would not result in development that harms the living conditions of neighbouring occupiers, with particular regard to privacy. As such, the proposal accords with the relevant provisions of Policy CG4 of the Core Strategy. Amongst other things, the policy requires development to protect amenity and privacy.

Other Matters

28. The appellant points out that Council officers recommended the application for approval. However members of the LPA Committee are not duty bound to follow the advice of their officers.
29. Concerns have been raised in respect of existing boundary treatments on the appeal site. In common with the Council, I am satisfied however that the proposed boundary treatments⁴ by way of their materials appearance and height, adhere to the character of the area.
30. 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.

Planning Balance and Conclusion

31. For the reasons outlined above I find that the development would conflict with development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

E Heron

INSPECTOR

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