

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
115968/FO/2017	13 Apr 2017	19 Oct 2017	Cheetham Ward

**Proposal** Erection of a self-activating flood barrier at the entrance to basement carpark

**Location** Entrance To Basement Car Park Serving Cypress Place And Vallea Court, Manchester, M4 4EH

**Applicant** Pemberstone Reversions Limited, C/o Agent,

**Agent** Mr Michael Askew, Knights Professional Services Ltd, The Brampton, Newcastle-under-Lyme, ST5 0QW,

### **Description**

The application site is the entrance to the basement car park of two residential apartment blocks 'Cypress Place' and Vallea Court. The buildings form part of the Green Quarter complex which is located on the northern side of the City Centre.

The car park entrance is approximately 1000 mm lower than Scotland, the principal access road from which vehicles can enter and exit the basement car park. The entrance is also lower than the topography of the surrounding area/Scotland with the ground levels rising steeply in a north easterly direction.

The surrounding area is characterised by a mixture of commercial and residential buildings which form part of the wider Green Quarter complex, including the Peninsula which is an office building located further northwards along Scotland. Both the Peninsula and the residential blocks subject to this planning application use Scotland as their main access road for their respective developments. However, due to the topography of the area, the Peninsula is situated at a higher level than the application site.

To the south of the application site is the River Irk and its associated flood wall on its northern side, and the railway viaduct on the other. The river is culverted until this point.

### **The proposal**

Planning permission is sought for the installation of a self-activating flood barrier which is to be located along the top of the ramp to the basement car park.

There is an existing barrier situated at the immediate entrance to the car park, however, the applicant has cited that this barrier is not fit for purpose.

The applicant has stated that this flood barrier is required to prevent flooding and damage to the basement car park. Three flood events have occurred where the basement area has become flooded. The most recent of this was in 2016 where the existing flood barrier was overtopped due to excess storm and sewage discharging

onto Scotland. As a result, the flooding wrote off vehicles that were in the underground car park together with compromising the safety of the staff and residents and a series of infrastructure which is situated in the basement area.

The proposed flood barrier will prevent flood water at a depth of 1.5 metres above the surrounding ground levels from flowing down the sloped entrance to the car park from the highway into the basement car park of Cypress Place and Vallea Court. In addition, the proposed barrier will prevent the build-up of water between the gradient of the slope and the existing flood defence when in its closed position. When activated, the flood barrier would reach a height of 2 metres

## **Consultations**

**Local residents/public opinion** - Notification letters have been sent to an extensive area, local residents and businesses.

The comments, objections and supports have been received and are summarised below:

A letter of objection has been received from the landlords of the Peninsula. The comments can be summarised as follows:

- The barrier would create a period of time where Scotland is impassable and would be longer than 2 hours;
- This would cause inconvenience but would protect the basement car park;
- The applicant is awaiting the provision of sewer modelling results for United Utilities for inclusion within the hydraulic model in order to enable them to accurately determine if sewage flooding is contributing to the flood events;
- A walkover has been carried out and it appears that there are some defects to the existing sluice gate, despite recent works;
- United Utilities should be contacted and further information sought of the nature of the recent works to the gate and associated drainage commissioned;
- The fact that the foul water was contained within the recent flood waters is an obvious concern. In addition, it is understood that the force of the flood waters lifted and damaged the manhole covers within Scotland;
- The United Utilities sewer records indicate an overflow within the combined system close to the weir within the River Irk. It is assumed that this overflow should discharge into the River Irk during flood events and therefore recommend that United Utilities are commissioned to carry out an inspection of this overflow;
- The sewer records also indicate the combined system pipe diameter reducing in diameter as it runs down Scotland from The Peninsula towards Red Bank which causes concern and therefore it is recommended there is a review of this by United Utilities;
- It is considered that further flood defence systems should be explored as opposed to the erection of a flood barrier at the top of the car park entrance as the protection of these buildings only has been considered with little consideration given to the properties owners and tenants of the Peninsula.

Two letters of objection have also been received from tenants of the Peninsula including the 'The British Transport Police'. The comments can be summarised as follows:

- Erecting the flood barrier moves the risk to the Peninsula building. Following the most recent flood, the combination of surface and foul waste water has flooded the residential apartment.
- The barrier should not be allowed at the expense of other businesses;
- A key requirements for our organisation is to respond to the public. If the access is limited or compromised than this could be a life threatening issue;
- The primary issue here is that the combined sewer system connects to the residential/commercial building. The fact the sewer system infrastructure hasn't been upgraded to a separate system is beyond belief;
- Staff or any member of the public should not be subjected to foul waste and potential disease;
- In the event of flooding Scotland becomes impassable. This proposal does not address the issue and will only exacerbate it. Little regard has been given to other nearby occupants.

One objection has been received from a previous occupant of Cypress Place/Vallea Court. The comments can be summarised as follows:

- On the face of it the barrier seems reasonable. However, erecting the larger barrier doesn't stop the flood water from the drainage system accumulating. There is still going to be 100m<sup>3</sup> of water building up. Whilst this barrier will prevent the water from reaching the basement, it will now be the whole of Scotland which will flood instead to such a point that the water level rises above the height of the wall that separates the road from the river Irk;
- The proposal for the larger barrier transfer the risk and accountability. The Council needs to take the safety of the public at large into account;
- The root of the problems seems to be the system design when the Green Quarter was built. There is only one long term solution to prevent any flood from occurring in the future. United Utilities needs to move the drain outlet from its current position to a location further downstream, past the weir at the end of Scotland. That way the rising levels of the Irk will have no impact on the drainage systems around the Green Quarter;
- United Utilities, Living City and the building owners are simply passing the buck to each other – all desperate to avoid liabilities for the resolving the issue;
- Erecting the barrier at the entrance shifts the loss-of-life risk from out of the basement car park and out onto the public highway;
- Innocent residents/members of the public should be protected. These plans only serve to move the risk around onto the public highway. The mechanisms that allow the flood to occur in the first place must be eliminated altogether. The Council must force United Utilises to modify their existing drainage system where Scotland interacts with the River Irk.

A total of 10 letters of support have been received in respect of this planning application from occupants/owners of Cypress Place/Vallea Court. The comments can be summarised as follows:

- The building has been the subject of multiple flooding events to the car park and cars have been written off during the flooding of 2015 and 2016;
- The continued liability to flooding makes the car park in its current form useless and requires greater protection. Why was the car park allowed below ground in the first place;
- The flood barrier will increase the confidence of the residents who use the car park;
- The barrier will have little visual impact on the surrounding area;
- It is lucky there are no casualties during the flood incidents;
- The flooding which has taken place has been a huge inconvenience to residents;
- The flooding causes damage and takes a long time to dry out. There have been increases in service charge together with devaluation of property;
- The barrier would prevent health and safety concerns;
- The flooding causes the lifts to be out of action which is a huge inconvenience when you live on the higher floors of the building;
- There is contamination and faeces/sewage in the basement when the flooding has occurred.

**Highway Services** – The proposed barrier would hold flood water on the adopted highway during a flooding event. This is not supported by Highways due to the impact on the highway. If an event is forecast then significant traffic management would be required prior to any event to ensure the safety for all road users. This would include advanced warning signs, diversions etc. This is likely to have a significant cost implication for the Council as well as cause disruption to the wider network.

Also, post event there would be the cost of clearing up as a result of holding water on the highway and there could be further damage caused to the highway as a result of this water, debris etc. This again will have a notable impact of Council resources and cost implications.

**Flood Risk Management Team** – Object to the proposal. Whilst individuals have a right to protect their property from flooding this can only be undertaken if this is not to the detriment of a third party. As such, there are concerns about the flood barrier on the following grounds:

*Flood risk to Scotland*

The flood risk assessment states that the predominant flood risk to the basement car park is combined sewer flooding and not from surface water. The proposal to manage this sewer flooding is to provide a flood barrier at the top of the car park ramp and store the water during a storm event on the highway surface until it is able to drain into the highway gulleys and back into the combined sewer system once the storm event has passed. It is not acceptable to store combined sewer flooding above ground during a flood event as this:

- Poses a health and safety risk from contaminated water on the highway;
- The road will be impassable for over 2 hours (0.8 metres (50% AEP) to 1.6 metre depth (1% AEP) and would require road closure prior to an event which

- would have to be monitored closely by highways and clean up (due to the contaminated water) following cessation of an event;
- Access to Peninsula building would be removed whilst the road is closed and clean up takes place.

#### *River Irk – flood defence integrity and water quality*

For larger storm events (greater than a 20% annual exceedance probability) water stored within Scotland would reach a depth where it would begin to overtop the flood defence wall along the River Irk. There has been no discussion in the flood risk assessment regarding the integrity of the defences to take the loading from Scotland as the wall was designed to take the loading from the River Irk.

For the higher events, sewer water will be overtopping the defences entering the River Irk and there is no reference to a potential contamination issue for the river over and above the CSO which United Utilities licensed.

#### *Consideration of alternative options*

The only option the applicant has considered to manage the flood risk to the basement is through a barrier. This is without due consideration of implications of moving the flooding issues to the highway and thus placing the responsibility on the Council to manage.

As the predominant flood risk to the basement car park is combined sewer flooding, alternative options to manage this risk should be considered through additional storage options in partnership with United Utilities or looking at surface water separation to reduce the surface water entering the combined sewer system thus increasing the capacity during storm events. Management of the flooding issue in this area should be considered holistically and not as an isolated solution to resolve the basement car parking flooding.

**Environmental Health** – There are concerns from a public health perspective given the floodwater has the potential to contain sewer water (as the sewer has been known to flood in the past). It has also been stated that floods have been known to exceed 300mm depth, which will over top the kerbs of the road and therefore cause the flooding of surrounding land. This therefore brings in the potential for sewer water to make its way into the nearby River Irk.

Further information would be require as to how the surrounding road and land would be cleaned up after a flood event to ensure that there is no residual contamination human health issues as a result of any flooding of the sewer. Further information should also be obtained with regards to how the river Irk would be protected during a flood event.

**Design for Security at Greater Manchester Police** – There are no major concerns with this proposal and recommend that any new fittings are certified to Secured by Design Standards.

**Environment Agency** – Have no objection in principle to the proposed development. The proposed installation of drainage pipes through the existing flood defence wall will require a permit under the Environmental Permitting (England and Wales) Regulations 2010 for the Environment Agency.

**United Utilities** – The contents of the submitted planning application confirms that as a consequence of the proposed flood barrier the adjacent highway would be flooded for a longer period which would have a direct impact on the building known as the Peninsula.

It is also noted the reference of pumping away flood waters. This is required to be discussed with the Council's flood risk management team. This plan should be implemented for the lifetime of the development and form a condition of any planning approval.

The submitted information also refers to additional modelling which has not yet been submitted for consideration.

## **Policy**

### The Development Plan

The Development Plan consists of:

- The Manchester Core Strategy (2012); and
- Saved policies of the Unitary Development Plan for the City of Manchester (1995)

The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) and sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents as directed by the National Planning Policy Framework (NPPF).

The NPPF requires application to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

### Manchester Core Strategy Development Plan Document (July 2012)

The relevant policies within the Core Strategy are as follows:

Policy SP1 '*Spatial Principles*' provides a series of core development principles that development in all parts of the City should:

- Make a positive contribution to neighbourhoods of choice including;
  - Creating well designed places that enhance or create character.
  - Making a positive contribution to the health, safety and wellbeing of residents;
  - Considering the needs of all members of the community;
  - Protect and enhance the built and natural environment.
- Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible;
- Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy EN1 '*Design principles and strategic character areas*' states that all development in Manchester will be expected to follow the seven principles of urban design. Opportunities for good design to enhance the overall image of the City should be fully realised, particularly on major radial and orbital road and rail routes. Proposals for new development must clearly detail how the proposed development addresses the design principle, reinforces and enhances the local character of that part of the City and supports the achievement of the Core Strategic objectives.

Policy EN14 '*Flood Risk*' states that all new development should minimise surface water run-off. In addition, an appropriate Flood Risk Assessment (FRA) will also be required for all development proposals on sites greater than 0.5ha within critical drainage areas. Consideration has been given to the surface water run-off from the site and a scheme will be agreed which minimises the impact from surface water run-off.

Policy EN17 '*Water Quality*' states:

With reference to the Manchester-Salford-Trafford SFRA and other relevant documents:

- Development should avoid any adverse impact on water quality, including during the construction phase, and wherever possible should seek to enhance water quality, both chemical and ecological;
- Development should minimise surface water run-off from development and associated roads, and maximise the use of appropriate sustainable drainage systems, to minimise groundwater contamination, and to avoid pollutants reaching watercourses;
- Development close to a watercourse should also ensure that waste or litter cannot enter the watercourse from the site;
- Development should, where feasible and appropriate, seek to open up any culverted or hidden watercourse beneath the site to improve the ecological status of that watercourse.

Policy DM1 '*Development Management*' all development should have regard the following specific issues:-

- Appropriate siting, layout, scale, form, massing, materials and detail;
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area;
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise;
- Community safety and crime prevention;
- Design for health;
- Adequacy of internal accommodation and external amenity space;
- Refuse storage and collection;
- Vehicular access and car parking;
- Effect on biodiversity, archaeological or built heritage;
- Green infrastructure;
- Flood risk and drainage.

#### The Unitary Development Plan for the City of Manchester (1995)

The Unitary Development Plan for the City of Manchester was adopted in 1995. However, it has now been largely replaced by the Manchester Core Strategy. There are some saved policies which are considered relevant and material and therefore have been given due weight in the consideration of this planning application. The relevant policies are as follows:

Saved Policy DC22 'Footpath Protection' states that in considering development proposals, the Council will have regard to the effect on existing pedestrian routes and will not normally allow development which would result in unacceptable inconvenience to local pedestrian movement.

#### National Planning Policy Framework

The central theme to the NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role (paragraphs 6 & 7).



Paragraph 8 of the NPPF goes on to state that these roles should not be undertaken in isolation:

*“...to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system”*

Paragraph 9 of the NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment as well as in people’s quality of life. This includes making it easier for jobs to be created in cities.

Paragraph 99 states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

Paragraph 100 goes on to state that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Paragraph 103 states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

Paragraphs 11, 12, 13 and 14 of the NPPF outline a “presumption in favour of sustainable development”. This means approving development, without delay, where it accords with the development plan and where the development is absent or relevant policies are out-of-date, to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF.

#### National Planning Policy Guidance (NPPG)

The relevant sections of the PPG are as follows:

Paragraph 47 states:

Minor developments are unlikely to raise significant flood risk issues unless:

- they would have an adverse effect on a watercourse, floodplain or its flood defences;
- they would impede access to flood defence and management facilities, or;
- where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows.

Paragraph 54 states:

When considering safety, specific local circumstances need to be taken into account, including:

- the characteristics of a possible flood event, eg the type and source of flooding and frequency, depth, velocity and speed of onset;
- the safety of people within a building if it floods and also the safety of people around a building and in adjacent areas, including people who are less mobile or who have a physical impairment. This includes the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood;
- the structural safety of buildings, and;
- the impact of a flood on the essential services provided to a development.

While safety considerations are always very important, local planning authorities should seek to ensure that communities are sustainable, including ensuring that certain sections of society, such as the elderly and those with less mobility, are not unnecessarily excluded from areas where there is a risk of flooding.

### **Planning History**

- 077806/FO/2005/N1 – Erection of one 14 storey block and one 15 storey to 18 storey block to form 345 apartments with 465 sqm of commercial floorspace (Class A1, A2, B1, D1 and D2) with 232 car parking spaces and associated landscaping **Approved** December 2006;
- 101099/FO/2012/N1 - Installation of flood barrier to entrance to basement car park to block 6 **Approved** January 2013

### **Planning considerations**

The application site, together with the wider, consist of a dense residential quarter on the edge of the City Centre. The area is considered to be of medium risk of flooding being located in flood zone 2. Despite this, residential development was judged to be acceptable in this location and, subsequent to the development being built, planning permission was granted in 2013 for a flood barrier immediately to the entrance of the basement car park.

The applicant has highlighted that there have been a series of flooding events which have resulted in the basement car parking becoming flooded and causing damage to property and the buildings infrastructure. The 2013 barrier has been ineffective in preventing water from entering the basement car park.

As a result, the applicant now wishes to install a further flood barrier, adjacent to Scotland and the entrance to the car park, to provide protection to the basement car park in the event of flooding.

Matters which will require consideration are the visual amenity of the structure together with any impacts flood risk and management and highway and pedestrian safety. As this report will go onto to demonstrate, whilst the principle of a structure may be acceptable, there are consequence as a result which are not the public interest and will result in unduly harmful impacts. These matters will be considered in further detail below.

### **Visual amenity**

Policies EN1 and SP1 of the Core Strategy seek to ensure that new developments contribute positively to the local environment and its visual amenity.

The proposal will involve the creation of a channel across the entrance which will conceal the self-activating flood barrier. Once activated, the barrier will rise to a height of 2 metres. As the barrier will be concealed within the ground, the main aspect of the barrier will only be visible when in use. The material for the barrier will be metal which reflects the need for it to be robust to withstand the pressures from the flood water.

Two brick walls, to a height of 2.1 metres, will flank the sides of the barrier to prevent water escaping around the barrier. These structures will remain visible when the barrier is not in use and have a length of 1.2 and 1.8 metres and will join the existing brick supporting walls of the residential block.

The appearance and scale of the development reflects its purpose which is to provide a solid and robust barrier to prevent flood water escaping into the basement area. The structures have a simple appearance and are not considered to detract from the visual amenity of the surrounding area, particularly given the main barrier structure will be hidden beneath ground when not in use.

### **Flood risk**

The applicant has provided a detailed account of the circumstances which have resulted in this planning application. Although an existing flood barrier exists immediately at the entrance to the basement car park, recent events have revealed the current system to be inadequate as water has topped the barrier when it was deployed. Evidence indicates that this caused considerable damage to the vehicles within the basement area but also essential infrastructure (including fire safety equipment) within the building resulting in the building having to be vacated and residents temporarily having to stay in hotels.

The most recent event in February 2016 saw a period of heavy and intensive rain. In addition, the combined sewer within Scotland also exceeded capacity which further contributed to flooding at the application site.

Although the application site is located in flood zone 2, the risk of flooding from fluvial sources is low due to the depth of the river Irk at this point and the inclusion of its flood defence wall which abuts Scotland.

In terms of surface water flooding, the Scotland, together with the entrance to the car park, is at medium risk of flooding from this source with flood depths up to 900mm. This combined with the topography of the car park and its entrance, which is lower, the entrance becomes more vulnerable to surface water flooding as water is directed from Scotland and Red Bank into the basement car park area.

Following the submission of further information during the course of the planning application by the applicant, which included hydraulic modelling, this suggests that surface water only simulations indicate a much lower flood level than observed during times of heavy rainfall. However, following consultation with United Utilities, the applicant has been able to confirm that the surcharge of the public combined sewer network close to the site is the primary source of flood risk. This would correspond with the evidence from the recent flooding events which suggested that the water was also contaminated.

The United Utilities sewer plan identifies a 525 mm, becoming 375 mm diameter, public sewer in Scotland and a 1400 mm x 900 mm and 450 mm diameter public combined sewer in Red Bank. As such, the surcharge of the public combined sewer system close to the site is the primary source of flood risk.

The proposed development seeks to reduce the effects of this type of flooding event on the basement car park. Indeed, the modelling shows that with the barrier in place it will remove the existing flood risk to the basement car park.

However, as a result of the barrier there will be increased flood depths on Scotland during a surface water or public combined sewer flood event. Indeed, the hydraulic modelling shows that during all simulated return periods the road will be considered impassable. During the most extreme modelled return period (1% AEP + CC), Scotland is shown to be impassable (i.e. flood depths >300mm) for a total of 2hrs and 3mins.

The planning application has been carefully examined to determine the suitability of the barrier. It is considered that the impacts on the building, its occupants and their belongings is clearly distressing and causes inconvenience when a flooding event occurs.

However, the modelling demonstrates that the flood water will be held on the adopted highway for a considerable period of time which poses risk to the general public and for those wishing to access the Peninsula. Traffic management arrangements would need to be deployed due to the scale and time the flood water will be held on the adopted highway.

Whilst it is noted that there is an existing floor barrier at the application site, it is located immediately at the entrance to the car parking. Currently any flood water is held against that flood barrier within the slope area of the application site. As the proposed barrier is situated at the top of the slope, adjacent to the highway, the

proposed barrier will have materially different impact in that it will force the water to be held on the adopted highway causing the highway and amenity concerns raised above.

Furthermore, as the water is contaminated there is a risk to public health as a consequence and, as a result, there would be a delay in reopening the highway until an extensive cleaning up of the debris that would remain once the flood waters had reduced. On this basis, both the Flood Risk Management Team and Highway Services have raised an objection to the proposal.

The applicant has included a flood management plan within their submission. Whilst this indicates that the applicant would take some responsibility for cleaning the road, the traffic management arrangements, any road closures and ensuring that the highway was cleaned to a suitable standard would be the responsibility of the City Council together with any other risks to public and highway safety.

In addition, during larger storm events water stored within Scotland would reach a depth where it would begin to overtop the flood defence wall along the River Irk. There has been no consideration within the applicants supporting information with regards to the suitability of the flood defence wall to withstand the force of the water together with no consideration of the potential contamination of the River Irk. Any contamination of the River Irk is considered to be contrary to policy EN17 of the Core Strategy.

Flood Risk Management team have advised that other options should be considered and that a holistic approach to managing the flood risk at the application site, and the wider Green Quarter area, should be considered rather than dealing with this in a piecemeal nature.

Further information received from the applicant during the course of the application process demonstrates that discussions have taken place with United Utilities with regards to upgrading the capacity of the public combined sewer. United Utilities have indicated that works that would be required to upgrade the infrastructure in and around the application site are not currently scheduled and would have to be considered as part of future infrastructure projects. At best, such works could be undertaken in the next 4-5 years but this carries risk as the project would be competing against other priorities.

Notwithstanding this, the applicant has requested that consideration be given to granting the flood barrier to for a temporary period of 5 years. This would allow consideration of the impacts of the barrier and allow the upgrading of the system to be included in the next funding rounds.

Whilst it is noted that the applicant is seeking to find a solution to this very complex issue, and in the interest of their resident's health, safety and welling being, it is not considered that a permanent or a temporary flood barrier is acceptable in this instance.

Paragraph 100 of the NPPF is clear that:

*“inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere”*

Whilst the applicants deems the barrier to be necessary, the proposal will increase flood risk elsewhere which is contrary to the requirements of the NPPF.

The PPG goes on to state that:

*“the safety of people within a building if it floods and also the safety of people around a building and in adjacent areas .... This includes the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood”* (paragraph 54)

The safety of users of the adjacent highway network, and those which occupy surrounding buildings, will be compromised together with risk to human health as a result of the sewer water being left on the highway. The water being held on the adopted highway for over 2 hours will be dangerous resulting in careful management from the City Council. The concerns with regards to public health are also echoed by Environmental Health.

### **Highway and pedestrian safety**

Highway Services have considered the information submitted with regards to this planning application and have raised an objection to the proposal on the ground of highway and pedestrians safety. The effect of developments on road safety is a key consideration within policy DM1 of the Core Strategy.

As the barrier will hold the flood water on the adopted highway during a flood event this will have unduly harmful impacts on the highway network. In order to keep the area safe during a flood event, significant traffic management arrangements would need to be deployed to the area which would include advanced warning signs and diversions.

This would all be necessary to ensure the general public were kept safe and did not enter the area.

Once the flood waters had reduced, there will be a necessary clearing up of the adopted highway to remove the contaminated dirt and debris that will be left on the adopted highway before it could be re-opened.

During this time there is likely to be considerable disruption to local residents and the occupants of the Peninsula.

### **Public opinion**

The level of disruption, inconvenience and risk to safety that the flooding in the area poses to not only the occupants of the affected building but also those in the surrounding area, has resulted in a series of objections and letters of support to this planning application.

It is clearly unacceptable for the properties which directly relate to the application site to be the subject to the impacts associated with flooding from the combined sewer. However, in line with the requirements of the NPPF, developments should not move flood risk elsewhere.

In this instance, the installation of the flood barrier would move the flooding to the adopted highway which would result in unduly harmful impacts on highway and pedestrian safety together with disamenity to other users of the surrounding buildings.

### **Conclusions**

The creation of the flood barrier, whilst providing protection to the basement car parking area, will displace the flood risk onto the adopted highway. This will give rise to unacceptable harm to highway and pedestrian safety and cause disamenity to surrounding users.

**Human Rights Act 1998 considerations** – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the refusal of the application is proportionate to the wider benefits of refusal and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

**Recommendation      REFUSE**

### **Article 35 Declaration**

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Pre application advice has been sought in respect of this matter where early discussions took place regarding the implications of the flood barrier. During the course of the application, further discussion took place with the applicant regarding their proposal. In this instance, it is considered that there are unduly harmful impacts which cannot be overcome. The proposal is contrary local and national policy and is therefore determined accordingly.

### **Reason for recommendation**

- 1) The installation of a self-activating flood defence barrier at the entrance to the basement car park of Cypress Place and Vallea Court would displace the flood risk onto the adopted highway resulting in contaminated flood water being held on the highway for a significant period of time. This would have unduly harmful impacts on highway and pedestrian safety together with causing disamenity to surrounding occupants, including the Peninsula. In addition, due to the contaminated nature of the flood water this will pose a risk to public health. The proposal is therefore contrary to policies SP1, EN14, EN17 and DM1 of the Manchester Core Strategy (2012) together with saved policy DC22 of the Unitary Development Plan for the City of Manchester (1995) and the National Planning Policy Framework (NPPF) and Planning Policy Guidance (PPG).
- 2) The installation of a self-activating flood defence barrier at the entrance to the basement car park of Cypress Place and Vallea Court, which will cause the displacement of flood water, will place significant pressure on the flood defence barrier to the River Irk together with a breach of the barrier in extreme flood events. Any breach of the barrier will result in the pollution of the river with contaminated sewer water which would have an unduly harmful impact on water quality. This is contrary to policies SP1, EN17 and DM1 of the Manchester Core Strategy (2012) together with saved policy DC22 of the Unitary Development Plan for the City of Manchester (1995) and the National Planning Policy Framework (NPPF) and Planning Policy Guidance (PPG).

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

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 115968/FO/2017 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

### **The following residents, businesses and other third parties in the area were consulted/notified on the application:**

Highway Services  
MCC Flood Risk Management  
Greater Manchester Police  
Environment Agency  
United Utilities Water PLC  
MCC Flood Risk Management

A map showing the neighbours notified of the application is attached at the end of the report.

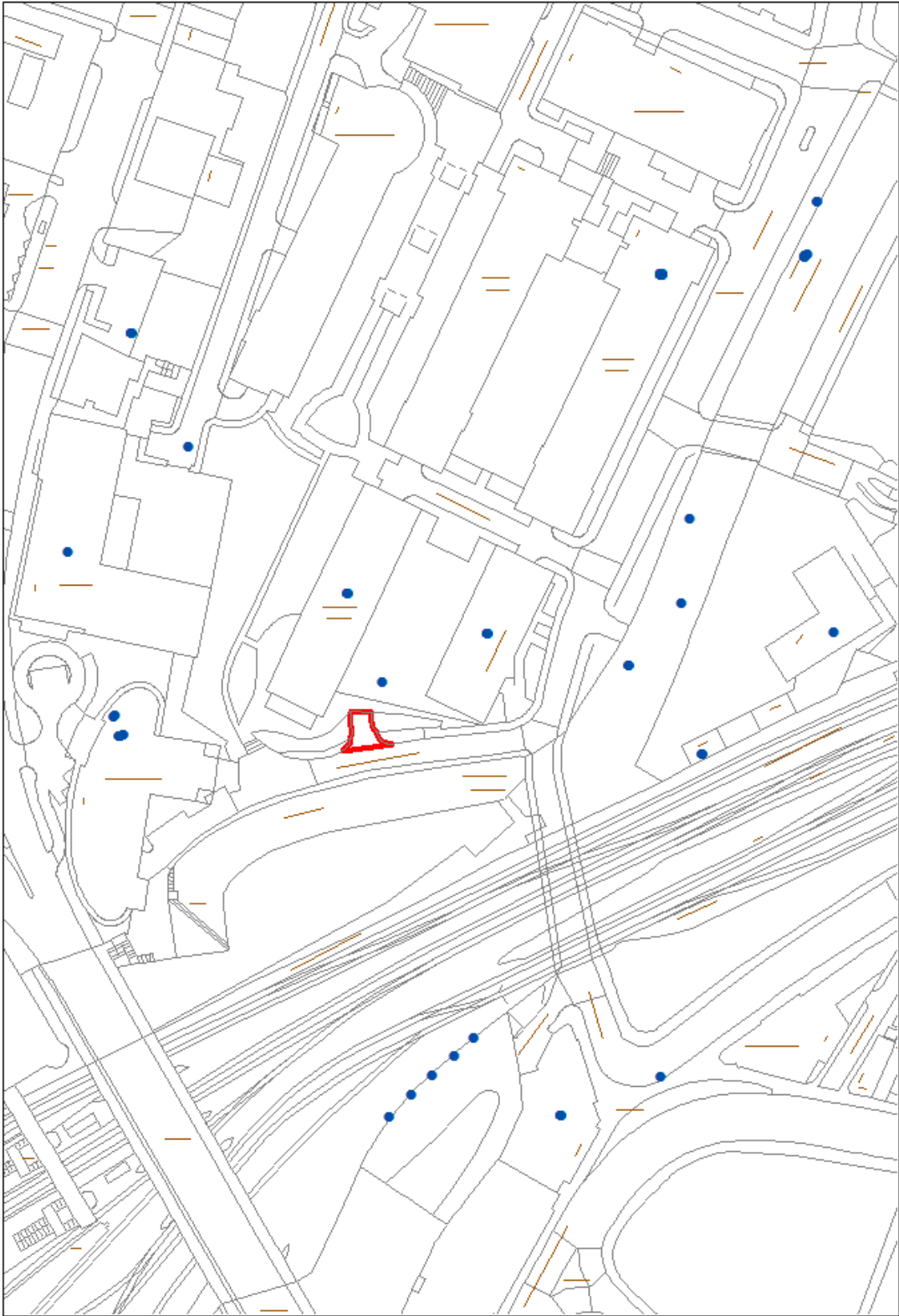
### **Representations were received from the following third parties:**



Apartment 1502 Cypress Place, 9 New Century Park, Manchester, M4 4EH



1011 Cypress Place, 9 New Century Park, Manchester, M4 4EF  
209 Vallea Court, Manchester, M4 4FE  
PeninsulaBusiness Services Ltd, The Peninsula, Victoria Place, Manchester, M4  
4EW  
106 Cypress Place, Manchester, M4 4EE  
Rainy City Properties Ltd, The Peninsula, Victoria Place, Manchester, M4 4FB  
1004 Cypress Place, 9 New Century Park, Manchester, M4 4EF  
1601 Cypress Place, Green Quarter, Manchester, M4 4EH  
909 Masson Place, 1 Hornbeam Way, Manchester, M4 4AQ

**Relevant Contact Officer :** Jennifer Atkinson  
**Telephone number :** 0161 234 4517  
**Email :** [j.atkinson@manchester.gov.uk](mailto:j.atkinson@manchester.gov.uk)



 Application site boundary       Neighbour notification

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