

Application Number	Date of Appln	Committee Date	Ward
117041/JO/2017	21 Jul 2017	19 Oct 2017	Chorlton Ward

Proposal Variation of condition 16 attached to planning permission reference number: 115325/FO/2017 to allow the use of unit 2 as a cafe/restaurant within class A3 with ancillary hot food take away.

Location 102 Manchester Road, Chorlton, Manchester, M21 9SZ

Applicant Mr Abraham Halpern , Retail Property Investments Ltd, 4 The Cottages, Deva Centre, Trinity Way, Salford, M3 7BE,

Agent Mr Ralph Taylor, Paul Butler Associates, 31 Blackfriars Road, Salford, M3 7AQ,

Description

This application relates to a 3-storey 1960s office building, which is located towards the northern edge of Chorlton District Centre. The application property is set back from the Manchester Road frontage but due to its siting and size is prominent within the street scene, the application site also contains a rear yard laid out for car parking which is accessed via Albany Road. The ground and upper two floors of the building have been historically used as offices but as set out within the planning history section of this report below the property has recently been subject to a notification of prior approval for a change of use of these upper floors to 16 no. self-contained apartments and a further report for extending the property for additional residential apartments is subject of a separate report on this Committee agenda (planning application reference 116984/FO/2017).

The surrounding area is of a mixed use in nature, immediately to the north is the popular Unicorn Grocery and dedicated car parking and servicing area, beyond that is the former Chorlton Sports Centre, to the east is a BT telephone exchange, to the south-east is an retirement apartment building (Cosgrove Hall Court), to the immediate south is a petrol filling station, whilst to the west on the opposite side of Manchester Road is Redgates Walk residential accommodation.

Proposal

The application is to vary condition 16 attached to planning permission 115325/FO/2017 which was approved at the 27th April 2017 meeting of this Committee to allow the use of the ground floor as 2 no. restaurant units (Use Class A3), the provision of a single storey front extension, external bin store, car parking, together with elevational alterations to the upper floors.

Members may recall that condition 16 was imposed to address concerns raised at the Committee meeting regarding the potential highways impacts of some elements of ancillary hot food takeaway provision from the units being undertaken.

Condition 16 was subsequently imposed on the planning permission and states:

“The units hereby approved shall be used as a Class A3 restaurant and cafe use (for the sale of food and drink for consumption on the premises) only and there will be no ancillary sale of food or drink for consumption off the premises.”

The reason for this condition was “For the avoidance of doubt and in the interests of highway and pedestrian safety as additional associated vehicular movements to the premises would exacerbate on street parking in the vicinity of the site”.

Since planning approval was granted the applicant has been in negotiation with a national restaurant chain (Pizza Express) to occupy Unit 2 of the ground floor of 102 Manchester Road. However, the agreement to take the lease of the unit has stalled due to the presence of condition 16 on the approval and the way in which that business operates. The applicant has therefore applied to remove the restriction placed by condition 16 on unit 2 of the ground floor of the building to allow some ancillary food prepared at the restaurant to be taken away for consumption off the premises. The application does not propose to change the approved use of the units and these would remain as A3 restaurants. Members of Committee should be aware that ancillary take away trade from an A3 Café/Restaurant use would normally be permitted under this use class. If in the future the level of trade altered to such an extent that a material change of use occurred then such a change of use would require explicit planning consent in its own right.

The current application relates to the removal of the restriction to Unit 2 only. If Committee are minded to approve this application Unit 1 at ground floor would still be subject of condition 16.

The potential lessee has supplied a letter outlining their operation at other similar venues across the country in summary this states:

- The company operates 450+ restaurants across the UK and it is company policy to provide the ability for an ancillary takeaway provision. All of their restaurants operate in this way.
- Across their restaurants they normally see circa 10% of their customers using the takeaway facility and within that circa 70% use online delivery services such as Deliveroo who use bicycles for delivery. Therefore, it is approximately 3% of customers who would arrive at the restaurant to pick up their order.
- Given the way the brand operates they almost fully rely on customers from the immediate vicinity walking to their restaurants. That is why in areas such as Chorlton they tend to be situated in the heart of the community rather than out of town, which helps to add vibrancy to centres. They indicate that a similarly positioned restaurant in Sheffield has a takeaway percentage of only 5% of total sales and where there is no dedicated car parking facility. They reiterate that they operate throughout the UK in town centre locations the vast majority of these restaurants do not have dedicated car parking and they never have issues or complaints.

- They reiterate they are committed to recruiting local people for the restaurant and estimate that the restaurant in Chorlton would create around 20 jobs.

Planning History

114453/P3OPA/2016 - Prior Approval for a Proposed Change of Use of offices to 16 flats (8 one bed, 8 two bed) – Approved 11th January 2017

115325/FO/2017 - Change of use of ground floor from office to form 2 no. restaurant units (Use Class A3), single storey front extension, external bin store, car parking, together with elevational alterations – Approved 12th April 2017

116447/P3OPA/2017 - Prior Approval for a Proposed Change of Use of offices to 8 flats (2 one bed, 6 two bed) – Approved 20th July 2017

116984/FO/2017 - Erection of a fourth storey to provide 6 no. apartments (22 in total) Use Class C3), with associated elevational alterations and car parking - This application is reported elsewhere on this agenda.

Consultations

Local neighbours and businesses were notified of the application. A summary of responses received is set out below.

Councillor Sheila Newman - Traffic problems on Manchester Road are already considerable and take aways would add to the problem. Would this be in breach or take away policy for district centres?

Unicorn Grocery, 89 Albany Road - They object to the numerous applications submitted, in a piecemeal fashion, for this single building. This is taking a large amount of my time Either the applicant appears not to really have any plan for the building as a whole, or they are trying incremental to wear the process down in order to get what they want. I await future variations, first for extended hours, then for changing the use to a cafe/bar, then for outside seating and so on.

We have already made submissions to the previous set of applications, and our concerns expressed there are only compounded by turning one restaurant into a takeaway.

In summary: the proposals will give over-provision for takeaways and restaurants in Chorlton; there is no adequate parking; there will be unacceptable congestion.

Despite what the application claims, most journeys to the takeaway/restaurant will be made by car, and there is no parking provision in the scheme; this will cause congestion and adversely affect other businesses and residents in the area. The restriction on use was explicitly made due to the significant concerns of the Chorlton provision being overtaken by takeaways and should therefore be maintained.

Perhaps the applicant could name the interested restaurant operator so that we could

judge for ourselves the likely profile of use?

A local resident has responded and reiterates concerns regarding the traffic that will be generated in an already busy Road. We dispute the findings on all the related surveys on traffic, there are constant queues in Albany Road to Unicorn on a weekend, a takeaway will mean people will park outside Cosgrove Hall Court and go to the front of this building after leaving their cars parked so it will be constant noise doors closing, engine noise and pollution. Again no one has registered on the plans that Cosgrove is a retirement property of 48 flats. Residents are already struggling to park their cars if they do not have parking within Cosgrove.

Highways Services – The use of delivery cycles/ motorcycles is considered to be an acceptable proposal in order to reduce customer collection by personal vehicle. However, should customers choose to collect in person, the potential pick-up demands are anticipated to cause congestion issues along Manchester Road/Albany Road and within the residential area.

Greater Manchester Policy Secure By Design - The proposed development should be designed and constructed in accordance with the recommendations contained within section 3.3 of the submitted Crime Impact Statement dated (30/01/2016 – URN:2016/0931/CIS/01) and a planning condition should be added to reflect the physical security specification listed within section 4 of the appendices within the submitted Crime Impact Statement.

Policies

National Planning Policy Framework (NPPF)

Paragraph 23 of the NPPF places an emphasis on ensuring the vitality of town centres through careful management, whilst paragraph 69 recognises that planning plays an important role in facilitating the creation of healthy communities.

Core Strategy

Of relevance to this application are the following:

C1 - Centre Hierarchy - Identifies the role and function of Centres in the provision of goods and services to serve the local catchment.

C2 - District Centres - Retail, public and commercial services and food and drink uses are prioritised with retail being the principal use in the Primary Shopping Area but diversity and choice are also emphasised.

C6 - South Manchester District Centres (Chorlton) - Identifies that capacity exists for comparison and convenience retailing with an emphasis on sustainability. Independent retail in Chorlton will be supported.

C10 - Leisure and the Evening Economy - This policy promotes support of the evening and night-time economy. Special regard needs to be paid to the cumulative impact of development, the effects on residential amenity and how developments

maintain a balance of uses which maintain a Centre's vitality and viability. New development will be permitted subject to the following considerations:

1. Cumulative impact - In areas where there is already a concentration of bars (A4), hot food takeaways (A5) and other night-time uses which are detrimental to the character or vitality and viability of the centre, there will be a presumption against further facilities;
2. Residential amenity - the proposed use should not create an unacceptable Impact on neighbouring uses in terms of noise, traffic and disturbance;
3. Balance - new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area.

Whilst the application proposals are not for a bar or hot food takeaway specifically, restaurants are clearly a use that support the leisure and evening economy. The principle of the use of the ground floor units as restaurants has previously been considered appropriate through planning approval 115325/FO/2017.

T2 - Accessible areas of opportunity and need - Development is encouraged around existing transport nodes to reduce the need to travel by car. The circumstances of each site is taken into consideration to establish an appropriate level of parking.

The applicant has provided an additional technical highways note to support the current application.

SP1 – Spatial Principles – Promotes neighbourhoods of choice which includes making a positive contribution to the health, safety and wellbeing of residents; protecting and enhancing the built and natural environment; minimising emissions, reusing previously developed land and improving 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.

DM1 – Development Management – Emphasises the effects of development on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation, including a consideration of existing conditions such as noise.

Regard should also be paid to accessibility to new development by sustainable transport modes; Community safety and crime prevention; Design for health; Adequacy of internal accommodation and external amenity space; Refuse storage and collection.

Unitary Development Plan

There are a number of saved policies relevant to this application:

DC10.1 – Food and Drink

In determining planning applications for developments involving the sale of food and drink for consumption on the premises, or for hot food to be consumed off the premises (whether or not other activities, such as a nightclub, are included), the

Council will have regard to:

- a. The general location of the proposed development, including any reference to the area in other policies in the plan;
- b. The effect on the amenity of neighbouring residents;
- c. The availability of safe and convenient arrangements for car parking and servicing
- d. Ease of access for all, including disabled people; and
- e. The storage and collection of refuse and litter.

Policy DC10.2 – The Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in shopping centres and at ground level, in local shopping parades of more than 8 shops or offices.

Policy DC10.3 – Development will not normally be permitted where:

- a. It is proposed outside the general locations mentioned above, or
- b. There is a house or flat on the ground floor next to the proposed business, or only separated from it by a narrow street or alleyway.

Policy DC10.4 – Where, having regard to the preceding policies, the council considers the proposed development to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, and the storage of refuse and collection of litter.

Policy DC26 ‘Development and Noise’ – Aims to minimise the adverse impact of noise on noise-sensitive developments.

Procedural Matter

If Committee are minded to approve this application and as this application varies one condition attached to the original planning consent it is necessary to re-impose the other conditions of approval 115325/FO/2017 to this decision.

Issues

Principle – The principle of two ground floor units for use as two restaurant units (A3 use) at 102 Manchester Road has been established through the approval of planning application 115325/FO/2017. The letter from the potential lessee of Unit 2 sets out how they would intend to trade from this unit and the level of potential takeaway trade, it is considered that the level of trade indicated would be ancillary to the use of the Unit as a Restaurant/Café use (use class A3).

Consideration is required to the highway and pedestrian safety impacts of the proposed variation of condition 16 of that approval and whether the removal of the condition 16 would give rise to additional impacts on residential amenity.

Pedestrian and Highway Safety – The application is supported by a letter from the potential lessee about the way in which they operate throughout the UK and how they intend to operate at Unit 2 within the application property.

Concerns have been raised with regards to the car parking pressures created by the conversion of 102 Manchester Road to provide residential accommodation and commercial uses at ground floor. The concerns of residents and local ward members are understood, the application site lies within a busy and vibrant District Centre and clearly there are consequential pressures for limited on street space for car parking from residents, local businesses and their customers, and visitors.

Historically the building was in use for offices across its 3 floors, there were no restrictions in terms of the level of occupation of the building, hours of use or ability to influence travel behaviour through the promotion of travel plans and dedicated secure cycle parking provision. This use is still the lawful use of the building and could potentially still be implemented without the ability to control how this would operate. However, the approval of the ground floor uses and the prior approvals of residential uses on the upper floors have secured the provision of dedicated cycle provision for future residents and visitors to the ground floor units and the promotion of travel plans for both the upper floor residential uses and the ground floor commercial uses these measures to promote and assist the use of alternative modes of transport to and from the building.

In assessing the original planning application it was acknowledged that the proposed use would lead to a marginal increase in trips associated with the use but that this was not considered to pose network capacity issues. Highway Services also acknowledged that the sites location in Chorlton District Centre was highly sustainable and that many trips were likely to be undertaken by public transport. It is considered that these conclusions are still relevant to the consideration of the current application.

The applicant has supplied further highways information to support this application, this demonstrates that the potential vehicular movements associated with ancillary take away trade were included within the trip generation information provided for planning approval 115325/FO/2017. This confirms that the proposal would not give rise to severe impacts.

It is noted that Councillor Newman poses the question whether the removal of this condition would be in conflict with the Councils Supplementary Guidance with regards to Hot Food Take Aways. The removal of the condition for Unit 2 would not grant permission for a Hot Food Take Away (use class A5) but would allow the ancillary use as part of a Café/ Restaurant A3 use.

Residential Amenity – The principle of the use of the ground floor units as a restaurant use has been determined to be acceptable through the approval of application reference 115325/FO/2017. The site is located within a district centre and close to a main road with a range of evening economy uses, given its location the application proposals are not considered to give rise to additional comings and goings from the premises to give rise to unacceptable impacts on residential amenity.

Conclusion - It is considered that the removal of Unit 2 from the restrictions imposed by condition 16 would not give rise to significant impacts in terms of highway and pedestrian safety to warrant refusal of this application.

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 of the application is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation Approve

Article 35 Declaration

The application has been determined in a positive and proactive manner based on seeking solutions to overcome identified issues.

Conditions

1) The development must be begun not later than the expiration of three years beginning with the date of planning permission reference 115325/FO/2017 that date being 28th April 2017.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Proposed Ground Floor Plan PL0100 Rev 5; Proposed Elevations PL0200 Rev 3; Bin Store Layouts PL0120; Design and Access Statement all prepared by DV Architects; Planning Statement dated 14 February 2017 prepared by Paul Butler Associates; Proposed Ventilation Plan prepared by Swan Projects; Noise Assessment prepared by Azymuth Acoustics (dated 7th November 2016); Crime Impact Statement prepared by GMP Design for Security 2016/0931/CIS/01; Ventilation/Extract information prepared and assembled by Swan Projects comprising: Proposed Ventilation Plan; Completed Appendix A 'Information Required to Support Planning Application for Commercial Kitchen Exhaust Systems' Checklist;

Purified Air ESP Brochure (ESP 3000E unit proposed); Purified Air ESP Dimension Data Sheet; Drawing C364/1 'Schematic of Ventilation & Odour Control System'; Purified Air Carbon Filter Data Sheet; Purified Air Enclosure dimensions drawing; Purified Air Pressure Drop Sheet; Northern Fan Supplies Extract Fan Data Sheet; Standard Circular Silencer Insertion Loss Data.

All date stamped as received by the local planning authority on the 14th February 2017

170330/SK21679/TN03(-00) 102 MANCHESTER ROAD, CHORLTON TECHNICAL NOTE prepared by SK Transport Planning received via email by the local planning authority on the 30th March 2017.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.

3) The materials to be used on the external surfaces of the extension hereby permitted shall match those of the existing building in type, size, colour and texture and those set out within the application forms and approved drawings.

Reason - To ensure the appearance of the building to be extended is not adversely affected by the materials to be used in the construction of the extension, pursuant to saved policies DC1 of the Unitary Development Plan for the City of Manchester and policy DM1 of the Manchester Core Strategy.

4) The premises excluding the external areas shall not be open outside the following hours:-
09:00 - 23:00hrs Monday to Sunday and including Bank Holidays.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to saved policy DC26 of the UDP and policies DM1 and SP1 of the Core Strategy.

5) Notwithstanding the approved plans prior to the commencement of development a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health

6) The hereby approved development shall be acoustically insulated and treated to limit the break out of noise in accordance with a noise study of the premises and a scheme of acoustic treatment that has been submitted to and approved in writing by the City Council as local planning authority. The scheme shall be implemented in full before the use commences.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties.

7) Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location.

The scheme shall be submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the site prior to the installation of the plant, equipment or servicing.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site.

8) Notwithstanding the approved plans and documents, fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a scheme to be submitted to and approved in writing by the City Council as local planning authority before the use commences; any works approved shall be implemented before the use commences.

Reason - In the interests of the amenities of occupiers of nearby properties pursuant to policy DM1 of the Core Strategy.

9) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to policy DM1 of the Core Strategy.

10) The external areas of the premises shall not be used for the consumption of food or drink outside the following hours and shall not allow for the use of amplified sound or any music in these external areas at any time:-
09:00 - 22:00hrs Monday to Sunday including Bank Holidays.

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

11) No disposal of refuse, glasses, or glass bottles in externally sited receptacles shall take place outside the following hours:
07:30 to 20:00 hrs Monday to Sunday including Bank Holidays

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

12) Prior to first use of the development hereby approved a car parking management strategy for the site including 5 spaces for the hereby approved development shall be submitted to and approved in writing by the local planning authority. The strategy shall include how car parking spaces at the site are to be managed, allocated to occupiers at 102 Manchester Road and how appropriate use of the spaces is to be

enforced. The approved strategy shall be implemented in full whilst the uses are in operation.

Reason - To ensure that adequate car parking is available to the development in the interests of highway and pedestrian safety pursuant to policy DM1 of the Core Strategy.

13) Prior to the first use of the development hereby approved a Servicing Management Plan detailing vehicular activity associated with waste management and delivery arrangements to the development. The submitted plan shall include details of the anticipated frequency of refuse collection and deliveries to the site, the types of delivery vehicle anticipated and proposed locations for unloading. The approved plan shall be implemented in full whilst the uses are in operation.

Reason - In the interests of highway and pedestrian safety pursuant to policy DM1 of the Core Strategy.

14) Prior to the commencement of development a construction management plan shall be submitted to and approved in writing, the plan shall include:

- Contractor parking arrangements;
- Delivery, storage, disposal and collection of materials arrangements.

The development shall be subsequently undertaken in accordance with the approved plan.

Reason - In the interests of highway and pedestrian safety pursuant to policy DM1 of the Core Strategy.

15) The development hereby approved shall incorporate the physical security measures set out within section 4 of the approved Crime Impact Statement. Within three months of first occupation a verification report outlining the measures incorporated into the development with supporting evidence shall be submitted to and approved in writing by the City Council as local planning authority.

Reason - In the interests of crime prevention pursuant to policy DM1 of the Core Strategy.

16) Unit 1 as identified on the approved drawing 'Proposed Ground Floor Plan PL0100 Rev 5' hereby approved shall be used as a Class A3 restaurant and cafe use (for the sale of food and drink for consumption on the premises) only and there will be no ancillary sale of food or drink for consumption off the premises.

Reason - For the avoidance of doubt and in the interests of highway and pedestrian safety as additional associated vehicular movements to the premises would exacerbate on street parking in the vicinity of the site.

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: 117041/JO/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:

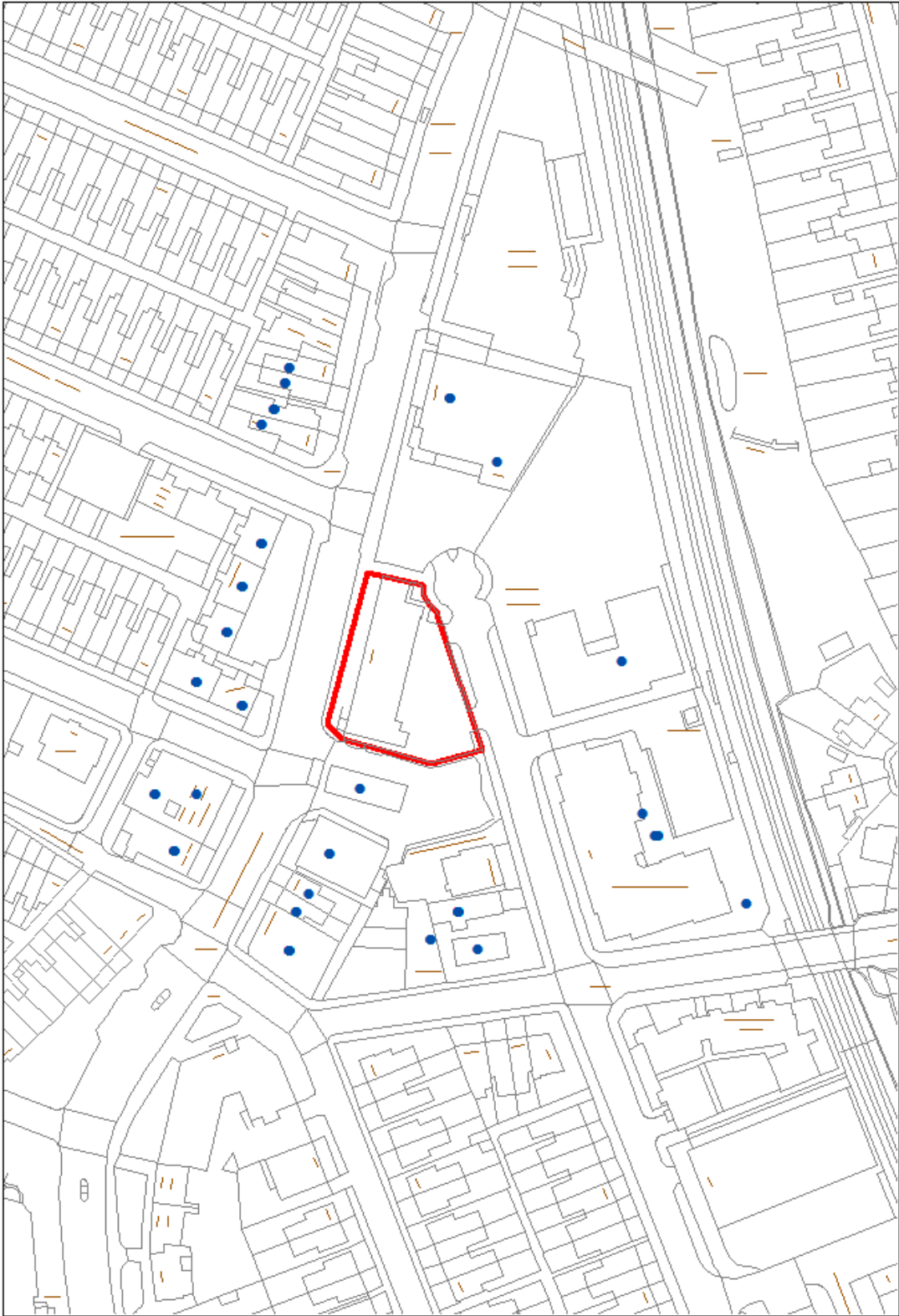
Environmental Health
Highway Services
Greater Manchester Police
Chorlton Civic Society


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:

38 Cosgrove Hall Court, 8 Albany Road, Chorlton, M21 0BA
Apt 16 Cosgrove Hall Court, 8 Albany Road, Chorlton, M21 0BA
Unicorn Grocery, 89 Albany Road, Chorlton, Manchester, M21 0BN

Relevant Contact Officer : Robert Griffin
Telephone number : 0161 234 4527
Email : r.griffin@manchester.gov.uk



 Application site boundary  Neighbour notification
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