

LATE REPRESENTATIONS AND COMMENTS

29 April 2020

Rear of Barlow Moor Road

Three further emails have been received from residents, this includes a request for the application to be deferred. Key points are summarised as follows:

In November last year a resident was informed that the decision had been taken to refuse the application under delegated powers on the grounds of traffic/highways and being unneighbourly.

In an email in March of this year the case officer advised that before proceeding he would meet ward members to discuss the application. That meeting has not taken place and residents have not been informed of next steps.

The application was amended on 31 March by four documents which seem to be under the general heading of 'Environmental Strategy' and were posted up on the Council's website. These are referred to in the officer's report. It is not considered anything has changed since the original decision to refuse the application and it can only be concluded the change is at least in part based on the Environmental Report.

It is considered the report is premature and incomplete for the following reasons.

1. There has been no attempt to re-consult residents on a very significant amendment to the application – that is, the Environmental Report. Failure to re-consult on amended planning applications has often been held to constitute maladministration.
2. The application as submitted by the applicant proposed a traffic scheme consisting of a one-way system through the alleys bordering the site. The planning authority has taken it upon itself to rewrite the application deleting the one way system and proposing entry/exit by one alleyway only. The application must be determined as submitted. It is not the role of the planning authority to act as agent for the applicant and to amend the application on his
3. In rewriting the highway scheme the officers propose to impose a condition prohibiting use of the two other alleyways for vehicular access. This is unenforceable by the planning authority
4. Given the information from the case officer there was a legitimate expectation that no decision would be taken until a meeting had been held with the ward members; and that we would be informed of the "next steps. Failure to keep residents abreast of developments in planning applications has been held to constitute maladministration.

5. The officer report continues to rely on drawings and distances submitted by the applicant which are inaccurate. For example, they show trees which simply do not exist. It cites some inaccurate figures in support of the recommendation to approve.

There are inaccuracies in the plans and drawings which provides misleading information about existing properties.

Residents understand that there are statutory deadlines for decisions but if the applicant has waited until the last moment to submit amendments to the application then it is he and not the residents who should bear the consequences of that.

While they accept that the delegation of planning decisions to the Chief Executive may be a reasonable way to proceed for non-contentious proposals it is not believed that the members intended that system to be used for contentious applications such as this one.

This application should not be determined on the basis of the planning officers' report nor under the current delegated arrangements. It should be deferred and dealt with when there is a return standard arrangements and when a site visit can be made. If in the meantime the applicant decides to submit and appeal then residents are confident that any inspector would agree with the original decision to refuse the planning application.

An email from the Ward Members has also been received.

In summary Members appreciate that the national emergency necessitated by the pandemic means that some council functions do of course need to continue by the means of delegated decision, they do not accept that this determination of this particular application is of such great import that it should proceed without going before a committee, given the strength of local opposition to it, and the great number of various concerns that the proposal.

The proposed revised smaller building is a great improvement on the original proposal but it still remains out of scale to the local homes. Further it is in such an inaccessible space that we think that the access and egress arrangements, even with the conditions attached, are simply unworkable. It is not the case as it is stated on p18 of the paper that all the alleyways are currently used. Two are pedestrian tracks. The only alleyway currently used is the one at the front. It is tiny, and very close to a significant junction. The idea of managing this through double yellow lines which would not in any case be much enforced is not acceptable.

The size and scale of the building are disproportionate to the infrastructure proposed to support it. It will attract more vehicles than there is parking space for, and there is nowhere to park. The arrangements proposed for waste management are likely simply to result in more commercial waste being left around on Malton Avenue.

The GMP security by design proposals referenced in the paper have not been made available for public scrutiny as part of the planning papers. This is simply not acceptable.

Finally although it is recognised that a significant effort has been made in designing the planning conditions to address the objections it is not believed that in practice there will be the resources for these to be enforced without a significant level of constant local attention, monitoring and effort. It is not considered that this is proportionate.

It is not believed there is a demand for office space in Chorlton or Chorlton Park- even more particularly in the present circumstances. However, there is a great demand for homes.

It is therefore requested that this decision is held pending the resumption of normal business so that the committee can come to see exactly the issues raised. Residents have expressed to us their anxiety that planning permission will be granted for office use but that the real intention would be to build homes there using 'permitted development' provisions.

The Ward members would still like to see a refusal. However, as a fall back would suggest that an additional condition to be attached to say that the application cannot later be converted to homes using the permitted development provisions.

The applicant has confirmed that once in use the development could generate up to 10 jobs.

Director of Planning

In response to the additional comments from residents, the original proposal had raised concerns and initially it was considered that this was such that a refusal of permission was likely. However, additional information was received from the Highway Authority regarding the amended scheme and it was concluded that any potential harm caused would not be such to justify and sustain a reason for refusal, particularly as there is the potential to impose conditions in mitigation.

It had been intended to arrange a meeting with the three ward members in order to discuss the revised scheme and in particular to outline why it is considered the revised scheme would not now cause any demonstrable harm to neighbouring occupiers or highway and pedestrian safety. Given the current circumstances this did not happen.

The Environmental Strategy referred to was amended to make reference to the inclusion of vehicle charging points and the measures to be incorporated into the fabric of the building to ensure it meets energy conservation targets. Revised drawings also received were amended to include these matters and clarify building measurements. The design, scale and massing of the building has not been changed from those revised drawings received in September 2019 that local residents were notified of.

The local planning authority is under no obligation to re-notify residents following amendments to a development proposal. However, there are instances where due to the scale and nature of changes this may be considered appropriate (as in this

instance when the height of the building was reduced). The changes set out above would not it is considered have been such to warrant a further re-notification.

The planning authority has not acted as agent and has not amended the application. The assertion that a local planning authority must determine an application as originally submitted is not correct. It is not unusual for proposals to be subject to change and revision during its consideration which is in accordance with guidance contained within the NPPF.

The Highway Authority advised that the most appropriate solution would be to allow vehicular access to and from the site via the Barlow Moor Road alleyway, rather than a one-way system that would exit into a small residential cul-de-sac.

For clarity it is not proposed to impose a condition prohibiting the use of the adjoining alleyways as they are all dedicated highways which any member of the public can use. The condition requires the applicant to lay down double yellow lines to prevent parking on the Barlow Moor Road alleyway. The objective is that by creating a clear, unobstructed route for vehicles to access and egress the site the Barlow Moor Road alleyway will become the access route of choice. The proposed development would also be subject to a travel plan which will promote alternative means of travel to the car and cycle parking would be provided.

In relation to the trees, the applicant has included these on his drawings as there are some present in the cross sections between the site and adjoining dwellings. The location of the trees is not a determining factor in relation to the recommendation. In terms of the measurements, officers had advised that these needed to be accurate, hence a further set of drawings with measurements was submitted.

Finally, the application is not one which would require a crime impact statement, however, it was considered it would nevertheless be appropriate to consult GMP as this site is unusual, not having a main road frontage.

The planning application is now due for determination. It cannot be assumed that if at appeal an inspector would consider the proposal as being unacceptable; the application has been amended and conditions are capable of being imposed to mitigate any potential harm.

The site is currently not in use but could, without any further control, open up for industrial use. The proposal would see its development for officers of a scale that would not give rise to the harm that would exist with the existing lawful use.

The recommendation is to approve with an additional condition which would prevent the change of use of the officers to residential without first seeking planning permission.