

Application Number	Date of Appln	Committee Date	Ward
123757/VO/2019	11th Jun 2019	17 th October 2019	Didsbury West Ward

Proposal CITY COUNCIL DEVELOPMENT Retention of access onto a classified road.

Location 53 Barlow Moor Road, Manchester, M20 6TP

Applicant Mr Mike Brogan , Manchester City Council, Hooper Street Depot, Manchester, M12 6LA,

Description of site

The application site relates to an installed dropped kerb within the pavement to the front of number 53 Barlow Moor Road located approximately 200 metres to the west of Didsbury District Centre. Barlow Moor Road at this location is subject to waiting restrictions between Monday and Friday of 7 and 10 am and 4 to 7 pm.

53 Barlow Moor Road is a three storey mid terrace Victorian property with a driveway area to the front with retained stone gate posts at its entrance. Similar driveways are present at neighbouring properties within this terraced block at numbers 51 and 57 although these driveways are not served by dropped kerbs but are used for off street car parking.



Number 53 Barlow Moor Road with installed dropped kerb in-situ

Application proposal

The dropped kerb was installed in November 2017 by the Council following a request by the owner of the property. As Barlow Moor Road is a classified road planning permission is required for the formation, laying out and construction of a means of access to a highway. Following receipt of a complaint regarding the installation of the dropped kerb the Council's Highway Services have now submitted a planning application to regularise the installation that had taken place.

After reviewing historic photographs of the street and property the formation of the driveway followed the removal of the front boundary wall and hedge, behind these features was a hard landscaped area together with path to access the front of the property. For clarification the works to remove the boundary wall and hedge did not require planning permission as they fall within permitted development rights for a householder. In this instance it is the creation of the dropped kerb that requires planning permission and is subject of the current planning application.

Consultations

Neighbouring properties were notified of the application proposal and correspondence was received from one resident a summary of the concerns raised is set out below.

- The front garden of 53 Barlow moor Road is not deep enough to park an average car.
- The reduction of the pavement, forces pedestrians onto the slope of the dropped kerb.
- Providing dropped kerbs and associated off road parking reduces visual amenity due to the loss of the front gardens, hedges etc The change in the streetscape is extreme, when front walls and hedges are taken down and the gate posts moved to the extremities.
- Along with a loss of visual amenity there is a loss of particle and noise reduction – which affects everybody
- The work does not comply with generally accepted building, or indeed, the Council's regulations - The Council's website states that the maximum width of a dropped kerb is 3000mms. In this case they have made it 6000mms with the splays projecting into the curtilages of both adjacent properties. Due to the depth of the kerb, the pavement is now 1100mm, when building regulations state a minimum width of 1500mm for wheelchair access. The cross fall on the footway altered exceeds that indicated as being acceptable by the Council (9.6 degrees actual against 7.1 degrees as a general rule seen as being acceptable). Crossfall on footways and footpaths may be necessary to provide good drainage , but if too great, can make it difficult for wheelchair users.
- There were no markings on the pavement or drawings for the contractors to work to – they just eyeballed it. If planning permission had been applied for and granted, then there would be a specification from planning, which would include the need for textured splays so that blind or visually impaired pedestrians would get some warning about a change of slope. As it is, there is no warning at all.
- Risk of toppling over when using mobility scooters

- Information on Council Website application form for dropped kerb was either erroneous or disregarded by the Council. The website asks applicant if they have a drive – which they haven't. If they say that they have, then the next question is how wide the pavement is and how high is the kerb. In the case of 53 Barlow Moor Rd, this is 2100mm and 150mm respectively. Using the council's acceptable limits for pavement width and slope, it is impossible to resolve them in this case. See below. The website also asks how wide the applicant wants the dropped kerb to be, saying that the maximum opening is 3000mm. They made it double that at 6000mm.
- Safety - Visibility onto Barlow Moor Rd from the driveway is restricted

The objector has provided a series of photographs showing cars and trade vans parked on the driveway overhanging the footpath these are shown below:





Councillor Richard Kilpatrick - We have an ongoing complaint from neighbours about this dropped kerb, which is an illegal dropped kerb because an application should have been made by the owner of the property. This did not materialise, but the highways department just did it anyway. I know that this is a mistake of the department - which happens and the complaint is being progressed by a neighbour.

We now have this retrospective application, from the council not the owner. I am worried that given the complaint process this application could not possibly be unbiased in its decision. Within the complaint process a decision was already shared with me that said that the planning have predetermined that the dropped kerb is acceptable and that no enforcement action and that planning is not required. Clearly it is required because an application has been made.

On the situation at this location - if we were approaching as a new application this should be refused because there is not enough room at this property to park a vehicle without impeding the public pathway.

Cllr Kilpatrick appended two photographs to his objection showing a vehicle parked within the driveway that overhangs onto the edge of the public footpath these are appended below:



Councillor John Leech - My concern is that consideration of disabled access along the footway will not be made and there will be no car parked on the drive (or a very small one, so that it does not overhang the pavement), and as a result they will just say that there are no issues in relation to safety caused by the dropped kerb, and then that will be it. The Highways department should be telling you that a standard

car cannot park without obstructing the pavement, and that the dropped kerb makes disabled access (or carer with a pram) exceptionally difficult along the pavement.

Transport for Greater Manchester - Barlow Moor Road is a highly trafficked strategic route forming part of the Key Route Network as well as being a Bus Priority and Cycle Route. As there is limited onsite curtilage at 53 Barlow Moor Road, it is anticipated that vehicles will reverse off the frontage of the property onto Barlow Moor Road. There is restricted sightline visibility for the driver of the vehicle carrying out this manoeuvre, and additional conflicts with the close proximity of the nearby junction of Grenfell Road. The driver of the vehicle would be unable to see vehicles, pedestrians or cyclists approaching along Barlow Moor Road, and the vehicle would already be out in the carriageway before having clear sight. It is therefore considered that vehicles reversing from the property out onto Barlow Moor Road would result in an abundance of traffic conflicts, to the detriment of pedestrian, cyclist and highway safety.

The site curtilage does not appear to be large enough to wholly accommodate a car parking space and this would therefore overhang the footway. It is important to ensure that the highway is unimpeded and that the footway is wholly available to pedestrians. If a car was overhanging the footway this could force pedestrians out into the highway to the detriment of pedestrian and highway safety.

Highway Services - We have reviewed the comments made by the objector and TfGM. Following this review the Development Control Officers have visited the site and assessed the proposal and location. Given the geometry of the site we confirm that this is an appropriate and suitable location for a vehicular driveway with dropped kerbs to allow the crossing of the public footway. As the Highway Authority we do not object to this proposal.

Policy

Section 38 (6) of the Town and Country Planning Act 2004 states that applications for development should be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The adopted development plan consists of the Core Strategy (adopted 2012) and the saved policies of the Unitary Development Plan. Due consideration in the determination of the application will also need to be afforded to national policies in the National Planning Policy Framework (NPPF) which represents a significant material consideration.

Relevant local and national planning policies to the consideration of the application proposals is set out below.

Core Strategy Development Plan Document

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) as the document that 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.

Relevant policies in the Core Strategy are:

Policy SP1, *Spatial Principles* – 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 and protect and enhance the built and natural environment. The City's network of open spaces will provide all residents with good access to recreation opportunities. The River Valleys (the Irk, Medlock and Mersey) and City Parks are particularly important, and access to these resources will be improved.

Core Development Principles of policy SP1 state 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

Policy T1, *Sustainable Transport* - To deliver a sustainable, high quality, integrated transport system to encourage modal shift away from car travel to public transport, cycling and walking, to support the needs of residents and businesses and to prepare for carbon free modes of transport, the Council will support proposals that: -

- Improve access to transport services and facilities in order to enable disabled people and people with mobility impairments to participate fully in public life.
- Improve pedestrian routes and the pedestrian environment.
- Take account of the needs of road users according to a broad hierarchy consisting of, in order of priority:
 1. pedestrians and disabled people
 2. cyclists, public transport,
 3. commercial access,
 4. general off peak traffic,
 5. general peak time traffic.

Policy DM1, *Development Management* – This policy states that all development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document:-

- 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.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Vehicular access and car parking.

Saved Unitary Development Plan policies

The below saved Unitary Development Plan policy is considered of relevance in this instance.

DC22.1 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.

The National Planning Policy Framework (February 2019)

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Other legislative requirements

Section 149 Equality Act 2010 provides that in the exercise of all its functions the Council must have regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between person who share a relevant protected characteristic and those who do not. This includes taking steps to minimise disadvantages suffered by persons sharing a protect characteristic and to encourage that group to participate in public life. Disability is a protected characteristic.

Issues

The general principle of providing access to an off road car parking space is generally acceptable subject to consideration of the impacts on pedestrian and highway safety.

Pedestrian Safety – Both the objector and Transport for Greater Manchester (TfGM) raise concerns that the provision of the dropped kerb facilitates the use of a driveway that is deficient in size to safely accommodate a car without the need for it to overhang the public footpath. Concerns are also raised that a vehicle manoeuvring from the driveway would have to do so in an unsafe manner that could be a danger to pedestrians walking along this section of footpath. The objector also raises concern that wheelchair users would be forced to avoid overhanging vehicles by traversing the overly steep crossover that has been installed. These are legitimate concerns relating to the use of the driveway at number 53 Barlow Moor Road facilitated by the provision of the dropped kerb.

It is noted that Barlow Moor Road has many examples of residential driveways exiting onto the road, many will be historic accesses and some have provision for vehicles to manoeuvre within the driveway to ensure they access and egress in forward gear.

In relation to access along the pavement, there is sufficient pavement width to allow pedestrians, wheelchair users and prams to safely manoeuvre without the need to move into the road carriageway. In addition the position of a highway sign within the pavement would naturally direct pedestrians away from the kerbside and the area of pavement that has been subject of amendment to provide the dropped crossing. This is demonstrated in the photographs provided by the objector set out earlier in this report. It is acknowledged that there is a slope within the footway forming part of the vehicular crossover. However, this type of slope is a common feature within pavements and Highway Services or TfGM do not raise objections to this on pedestrian safety grounds.

It must be noted that the car parking area to the front of 53 Barlow Moor Road could be utilised by small vehicles and/ or motorbikes without any overhanging. As with all driveways it is the responsibility of any occupier of a property to ensure that any vehicle is parked appropriately. Failure to do so is subject to separate controls outside of planning legislation.

Highway Safety – Transport for Greater Manchester raise concerns with regards to vehicle manoeuvring from the driveway and that this would have to be undertaken in an unsafe manner that could be a danger to cyclists and other vehicles using Barlow Moor Road as a result of reduced visibility between a driver exiting the driveway and users of Barlow Moor Road. They make comments in terms of relationship to the junction with Grenfell Road junction and that a vehicle reversing off the driveway would have reduced visibility. Grenfell Road located to the east of the dropped kerb is a one way street with no access out onto Barlow Moor Road at this junction. Vehicles would therefore not be exiting this junction heading towards 53 Barlow Moor Road. Whilst it is possible that a vehicle may reverse off the driveway this would be an unsafe manoeuvre for any driveway and is an action that is specifically referred to in the Highway Code as one that should be avoided. Rule 201 states that “When using a driveway, reverse in and drive out if you can”.

As indicated on the photographs provided by the objector there is scope for two vehicles to be parked on the driveway, it is considered that such level of vehicles would not generate significant numbers of vehicle movements associated with the residential property at number 53 Barlow Moor Road.

Vehicles accessing and egressing the driveway would, as is the case for almost all driveway accesses, have to cross over the footpath. This would need to be undertaken safely and at a speed reflecting the limited space available on the driveway, normal driver behaviour would undertake such manoeuvres in a safe and considerate manner. The driveway has a very similar relationship to other drives on Barlow Moor Road including directly opposite the application site, see below photographs, the provision of driveways and dropped kerbs is therefore not unusual along this section of Barlow Moor Road.



Map identifying driveways in the vicinity of no. 53 Barlow Moor Road



No. 8 Barlow Moor Road (Opposite no. 53)



No.12 Barlow Moor Road



Driveways at No.s 61,63 & 65 Barlow Moor Road

Visual amenity – Concerns have been raised with regards to the visual amenity impacts that the driveway now has on the visual amenity of the street and the area in general. As set out earlier in this report the works to remove the front boundary wall and former hedgerow did not require planning permission and are works that can be undertaken utilising permitted development rights that are available to residential dwellinghouses. It is acknowledged that this does result in a poor visual relationship to the street than the previous boundary wall and hedgerow. In addition a householder is permitted to install a hard surface to the front of a property, where such an area would exceed 5 square metres the surface shall be made of porous materials, or provision made to direct run-off water to a permeable or porous area or surface. The driveway at number 53 Barlow Moor Road is made up of loose gravel and other porous materials and would therefore not require planning permission.

Other matters – The objector and ward members have raised concerns about the size of the driveway accessed via the installed dropped kerb and that this is insufficient for an average car. A number of photographs have been submitted that indicate cars overhanging the driveway at this property and neighbouring properties that do not benefit from a dropped kerb, the amount of the overhang depends on the vehicle parked on the driveway. There are also examples of where a car has been parked and does not overhang onto the pavement. The current application is for the provision of the dropped kerb to provide access to the driveway, there are other examples on the street and in close proximity of similar driveways that do not benefit from a dropped kerb.

It is acknowledged that the driveway is small in depth and that there have clearly been instances where some vehicles overhang the pavement. This issue has been discussed with the Council's Parking Services who enforce parking restrictions across the City. They have confirmed that an example provided to them would not encroach far enough onto the pavement to cause a hazard and that pedestrians can still use the pavement without having to go on the road.

Cars that would overhang onto the footpath would at times, depending on the vehicle parked, force pedestrians to use the full footpath width including the slope associated with the dropped kerb. The materials used in the construction are the same as those that make up the rest of the pavement being a standard tarmac surface. This material is widely adopted for the surfacing of pavements and dropped kerbs throughout the city and countryside, it is not therefore considered to be a material that would be slippery or hazardous to pedestrians. Indeed neither MCC Highway Services nor TfGM raise any concerns with the installed crossing, materials used in its construction, the width or dimensions of the crossing or the steepness of the slopes formed by the installation.

The traffic regulation orders on Barlow Moor Road in this location which are in the form of a single yellow line restrict on street car parking between 7 -10 am and 4-7pm Monday to Friday. At all other times the occupier of the property, together with others, could park on the road. Given the nature of the road in this location this could give rise to other issues both in terms of pavement parking and also impacts on the flow of traffic along Barlow Moor Road. The provision of the driveway allows the occupier of the residential property to have an off street car parking space and not rely on parking on-street either to the front of the property, when the parking restrictions are not in place, or on side streets close by that already suffer from high levels of on-street parking pressures. The driveway is capable of accommodating certain types and sizes of cars, as well as motorbikes without any overhanging onto the pavement as is the case for many driveways. If vehicles are not suitably parked or of a size that does not reflect the space available to them then this would be an issue for Parking Services.

It is noted that there are several other driveways in the vicinity of this current application that do not benefit from a dropped kerb and these are accessed by vehicles bumping over a kerb to park. This would result in an offence but one that is outside of planning controls, similarly the overhanging of vehicles onto the footpath would be a parking control issue.

Local Councillors have raised concerns with regards to the impartiality of the Council as local planning authority to consider the current application and that a decision may have been predetermined as a result of a separate complaint regarding the installation of the dropped kerb. The current proposals have been subject of full consideration and review, taking into account the view of residents, MCC Highway Services and TfGM as well as the context of the application site and other similar arrangements in the vicinity.

Resident comments – The concerns raised by the objector relate to the standard of work undertaken to implement the dropped kerb, and that the provision of a dropped

kerb in this location giving rise to concerns in terms of pedestrian and highway safety.

As set out above the provision of an access to a driveway on Barlow Moor Road would not be an unusual feature, there are many examples of similar arrangements and accesses on to the road. Barlow Moor Road is a busy thoroughfare but does have a 30 mph speed limit and along this particular stretch of road is residential in character. Inconsiderate car parking is an unfortunate feature of many streets across the city but where this does cause obstructions to footpaths and the highway then this would be subject to enforcement by the relevant body. As demonstrated in the submitted photographs there does remain adequate footpath width for pedestrians, wheelchair users and prams in this location and the fall of the dropped kerb is again similar to other dropped kerbs in the area. As set out earlier neither MCC Highway Services nor TfGM raise concerns with the quality of the crossing installed.

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 Director 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 considered in a positive and proactive manner as required by The Town and Country Planning (Development Management Procedure) (England) Order 2015.

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: 123757/VO/2019 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:

Transport for Greater Manchester

Highway Services

Didsbury Civic Society

West Didsbury Residents Association

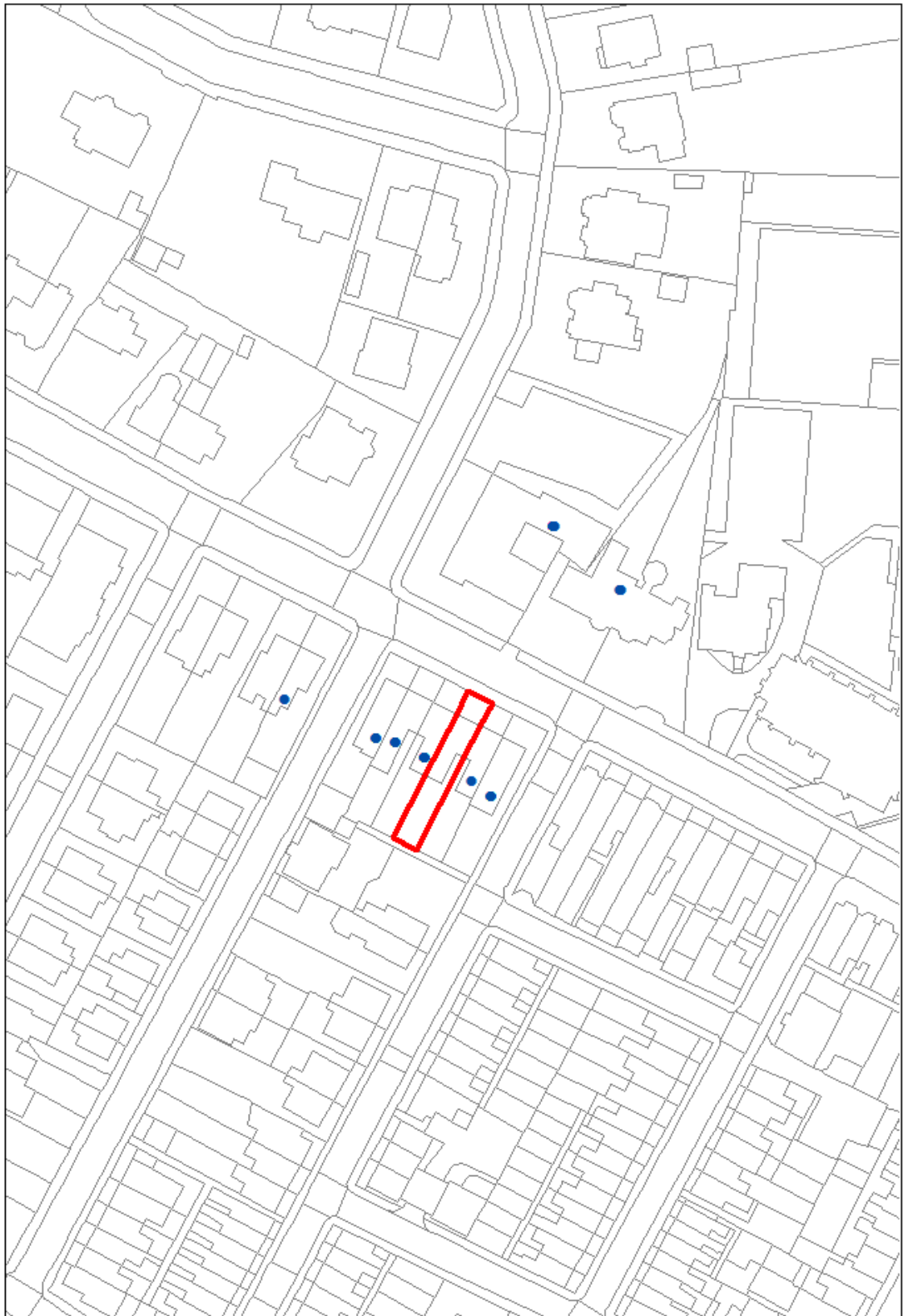
A map showing the neighbours notified of the application is attached at the end of the report.

Representations were received from the following third parties:

Transport for Greater Manchester

Highway Services

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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