

Application Number	Date of Appln	Committee Date	Ward
121302/FO/2018	5th Oct 2018	17th Jan 2019	Chorlton Park Ward

Proposal Installation of fencing to pedestrian alleyway and change of use of alleyway to form private gardens

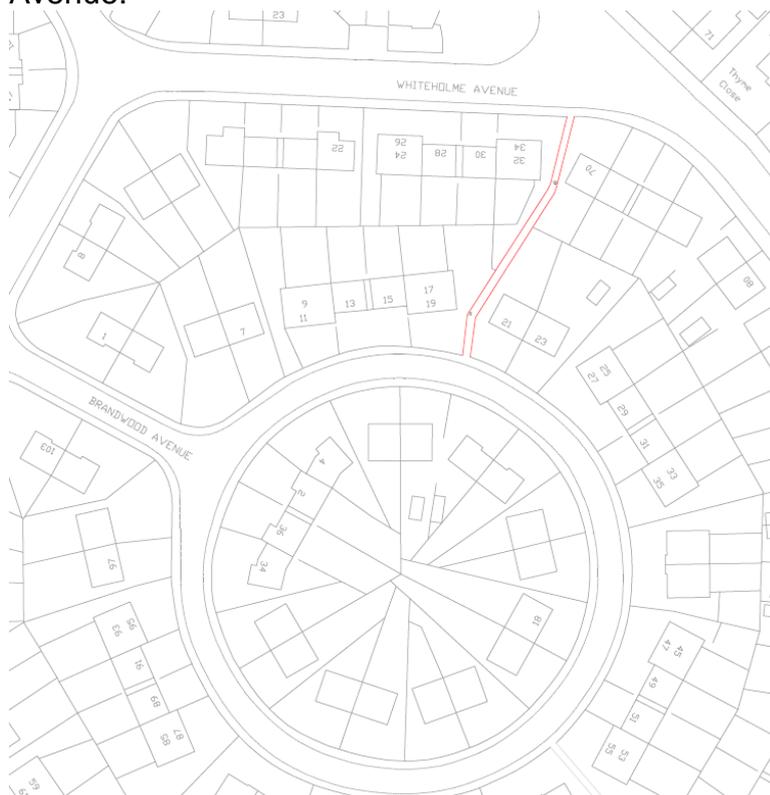
Location Alleyway Between 34 Whiteholme Avenue, 70 Merseybank Avenue And 17-19 And 21 Brandwood Avenue, Manchester, M21 7PH

Applicant Mr David Squires, Aspen House, 825 Wilmslow Road, Didsbury, Manchester, M20 2SN

Agent

Description

This application relates to the footpath which runs north to south between Whiteholme Avenue and Brandwood Avenue on the Merseybank estate. The footpath is located adjacent to no.'s 32 and 34 Whiteholme Avenue and 70 Merseybank Avenue, running through adjacent to no.'s 17, 19 and 21 Brandwood Avenue.



Footpath highlighted in red

The area is a former local authority housing estate, which was transferred to Southway Housing Association.

Permission is sought to close the footpath and for the land to be absorbed in to the gardens of the adjacent properties. The boundaries would then be enclosed. The enclosure materials would be as follows:

34 Whiteholme Avenue: Timber and PCC post palisade fencing to match existing fencing.

Rear of 34 Whiteholme Avenue & 19 Brandwood Avenue: Timber and PCC post waney lap fencing.

19 Brandwood Avenue: Privet hedge infill.

In support of the application the applicant has submitted supporting statements from Merseybank Avenue Home Watcher's Group, Cllr Mandie Shilton Godwin, PC Stuart Anderson, and the City Council's Neighbourhood Manager for the area.

There is a separate legal process that the applicant needs to undertake for the closure of the alleyway as a right of way if planning permission is granted.

Consultations

Local residents/businesses - 11 letters have been received, 10 of which are in support of the proposal and one is neutral. The comments are summarised below:

- It definitely should be closed, a lot of anti-social behaviour revolves around the entrance to the alley, mainly groups of youths hanging around, and drinking alcohol, selling drugs (cars pulling up at night and drugs being sold); creating noise and locals feeling intimidated;
- It has also been used as a dumping ground and fly tipping which is a hazard to young children.
- Witnessed youths being chased by the police who then run into the alley to escape and are not apprehended. In addition those riding motorbikes illegally when chased by police have escaped through the alley.
- The number of burglaries is also going up and this entrance is used to monitor the houses and movements on the street.
- In last few years that Alleyway became the haven of vandalism and ASB, have seen many occasions kids and adults targeted the shops crosses the street throwing objects and running down the alleyway including stolen motorbike.
- Criminals are using the Alleyway to run away from police officers.
- So many robberies have been occurring in Mersey Bank Estate and lots of residents have been badly affected due to the heightened amount of crime that we have witnessed in the past years. Residents are feeling defenceless when those youths committed the crime and use the Alleyway in order to avoid being caught from the police.
- It has been used by burglars as a point of surveillance.
- Litter left in alley; rubbish thrown into neighbouring gardens. Neighbours abused when confronting youths about rubbish. Drug dealing there. Empty packages found around. Drinking alcohol. Fence panels stolen to use as a shelter over alleyway. Burglaries. Stones thrown through windows. Used as an

escape route from police. Off road motorbikes. Neighbours constantly feeling forced to move.

- Concerned that should the proposed closure go ahead the anti-social behaviour will simply be displaced to the footpath adjacent to Caldervale Avenue and Brandwood Avenue. Currently experience fly tipping and some anti-social behaviour and concerned that the fly-tipping will increase in this footpath.
- Understand that both the footpath being closed and the footpath between Brandwood Avenue and Caldervale Avenue are owned by Southway Housing. Request that a condition of any planning approval granted be careful monitoring and review of the current and future anti-social behaviour and littering/fly-tipping in this footpath. In addition, believe there should be a commitment from Southway that there will be an increased level of surveillance and care for the remaining footpath and a willingness to discuss closing this footpath as well should the problems simply be displaced.

Highways – It would appear from the available city council highway data that there is a historical highway network on the development plot which should be stopped up under S257 of the Town and Country Planning Act 1990. This will require an application to the relevant offices for the Department for Transport in the north east and it is recommended that the applicant consults widely before progressing the stopping up. Should the stopping up be approved then the proposed boundary treatment and the conversion into private gardens is supported by Highways.

Peak & Northern Footpaths Society - We object to the closure of this alleyway. At a time when the Council should be encouraging walking on health grounds, and discouraging driving on pollution and climate change grounds it is wholly inappropriate to be closing off pedestrian access.

GMP - Having now reviewed the plans, we cannot see any problem with the proposed or the proposed fencing type, the closure of the 'alleyway' will remove the attraction of anti-social behaviour.

Policies

National Planning Policy Framework

National Planning Policy Framework (NPPF) - This Framework came into effect on 27th March 2012 and was amended and updated in July 2018. It sets out the Government's planning policies for England and how these are expected to be applied. It defines the Government's requirements for the planning system 'only to the extent that it is relevant, proportionate and necessary to do so'. It provides a mechanism through 'which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities'.

The Framework re-iterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory status of the development plan remains as the starting point for decision making. However, paragraph 10 states

that 'at the heart of the Framework is a presumption in favour of sustainable development' and, in 'decision-taking', this means that development proposals should accord with the development plan should be approved without delay unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted.

Paragraphs 91, 92, 93 and 95 go on to state:

91. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- a. promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
- b. are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and
- c. enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

92. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a. plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- b. take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
- c. guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
- d. ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
- e. ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

93. Planning policies and decisions should consider the social, economic and environmental benefits of estate regeneration. Local planning authorities should use their planning powers to help deliver estate regeneration to a high standard.

95. Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:

- a. anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security; and
- b. recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.

The Development Plan

Manchester's Core Strategy Development Plan Document now forms part of the development plan for Manchester and its policies provide the basis for planning decisions in the City. The Core Strategy replaces a large number of policies in the Unitary Development Plan; however, some of the UDP policies will remain extant until they are superseded by policies in a future Development Plan Document.

Policy SP1 sets out the key spatial principles which will guide the strategic development of Manchester to 2027 and states that outside the City Centre and the Airport the emphasis is on the creation of neighbourhoods of choice. It also sets out the core development principles, including:

- creating well designed places,
- making a positive contribution to health, safety and well-being,
- considering the needs of all members of the community, and
- protecting and enhancing the built and natural environment.

Policy DM1 states that all development should have regard to 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.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Design for health.

Unitary Development Plan for the City of Manchester (Saved Policies)

The below saved policies of the Unitary Development Plan are considered relevant:

Policy DC22 - 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 Guide to Development in Manchester SPD 2007

Paragraph 8.3 requires that:
Informal surveillance should be promoted;

And paragraph 8.8 states:

The creation of a high quality environment is vital in enhancing everyone's sense of wellbeing and safety, encouraging long term commitment to the City and its neighbourhoods. This is why the Guide places great emphasis on making the City more user friendly, easier to move around and easier to look after. Whilst a poor physical environment is often associated with fear of crime a high quality environment can encourage a sense of respect and self-esteem in the local community. In this way the Guide ties directly into the National Respect Action Plan and Manchester's Sustainable Community Strategy, one of the key drivers of which is the enhancement of individual and collective self-esteem and mutual respect.

Issues

Principle - The main issues for consideration relate to the acceptability of the closure of the footpath and the reasoning behind the proposed closure in terms of residential amenity, crime and disorder, the availability of disabled access and visual amenity. The main policies that relate to the assessment of the proposals are policies SP1 (Spatial Principles) and DM1 (Development Management) of the adopted Core Strategy for the City of Manchester and saved policies DC22 (Footpaths) of the City Council's Unitary Development Plan.

Anti-social behaviour – The applicant has stated high incidences of anti-social behaviour, drug dealing and fly tipping as the reasons they feel it is necessary to close this footpath; and have stated that they have used all means available to reduce incidents of anti-social behaviour in partnership with the police and the City Council, and that GMP currently patrol the alleyway but due to limited resources it remains problematic.

As stated earlier in the report the applicant has supplied supporting statements. The statement from PC Stuart Anderson makes reference to the issues specific to this footpath within the estate and can be summarised as follows:

- As this alleyway is situated directly next to the shopping parade on Merseybank Avenue, it is the main focal point on the estate for congregation.
- The only vehicular entrance into the estate is from Maitland Avenue, due to the design of the estate. The exit off the estate by vehicle is either via the junction with Maitland Avenue or via Princess Road, which is an 'exit only' junction. Therefore, this alleyway is a 'vantage point', which gives the criminal element full view of the distance of the road ahead, namely Merseybank

Avenue. This allows full visibility to see when the police are coming as you can see the junction with Maitland Avenue in the distance from this point.

- The alleyway is perfect for the minor element of people who want to deal drugs and want to cause mischief, and gives 'cover' for those whom wish to hide and observe without being seen.
- I have attended countless reports made by local residents of large gangs stood by this passageway and acting in an Anti-Social Behaviour or drug dealing, which has been going on for many years.
- For years this alleyway has caused distress to local residents. Local people have refused to use the local shops due to intimidation from mainly youths stood by this passageway.
- A Police Operation called OPERATION DARKER NIGHTS was put into place around January last year in order to tackle the Anti-Social Behaviour, drug dealing and residential burglary in the area. Those who congregated in this area were involved in burglaries in and around this area. Joint partnership work was conducted in order to tackle this issue. This alleyway continues to be the focal point where the criminal element will congregate and conduct their criminal activities.
- Recently, youths have took to making videos, having street barbeques whilst smoking drugs, leaving litter and dealing drugs from the alleyway at the same time. These are all current issues for local residents whom have to endure this type of behaviour. GMP fully support this closure. Closure of this alleyway will help to dramatically reduce crime and Anti-Social Behaviour in and around this area.

Furthermore, the applicant has also submitted a statement from Cllr Mandie Shilton Godwin stating:

- Many residents have pressed us to arrange for this for a number of years. The alleyway has unfortunately become a magnet for groups of youths dealing in drugs, and generally conducting themselves in an extremely antisocial and intimidating manner.
- The alleyway is situated on a route to and from the shopping parade and residents have reported feeling too scared to walk past the groups that loiter there thus affecting their quality of life and peace of mind.
- Not only are there large groups of youths but they often have off road bikes and cars playing loud music which join the group too, causing further inconvenience and noise nuisance for local residents.
- In recent months this behaviour has become much worse, to the extent that police had to conduct a specific operation over the summer to tackle it. As local councillors we worked closely together with other partners such as the city council's anti-social behaviour team, Southway housing association and local residents to tackle the issues.
- Asking Southway to arrange the closure of the alleyway was one of the requests of the residents. Apart from the anti-social behaviour, the alleyway has for many years been an eyesore. It is regularly strewn with litter, smashed bottles and drug paraphernalia. There is also a problem with fly tipping and dumped rubbish both in the alleyway and in the gardens that adjoin it. We are very pleased that Southway has been willing to take action to close the alleyway and we would like to see it take place as soon as practicable.

Residential Amenity – It is anticipated that the closure of the footpath and the absorption of the land into adjacent gardens will result in a decrease in fly tipping. Together with a decrease in noise from associated anti-social behaviour of people loitering in and around the footpath. The use of the land to be enclosed as private garden space would be appropriate and acceptable in this context.

The proposed fencing is considered to be sympathetic to the character of the area and would match with adjoining properties.

In light of the above and given the context of the site it is believed that measures proposed and the use of planning conditions would prevent any significant, adverse impact upon residential amenity. On balance, it is considered that the amenity of residents would not be so adversely affected as to warrant refusal in this location, therefore complying with policies DM1, SP1 of the Core Strategy.

Visual Amenity – The materials proposed for the boundary treatments are considered to be acceptable and would match adjacent materials used. The front boundary treatments would be a mix of 1 metre high privet hedge to the front of 19 Brandwood Avenue, and 1 metre high timber and PCC post palisade fencing to the front of 34 Whiteholme Avenue, which would match existing front boundary treatments. The rear gardens would be enclosed with 1.8 metre high timber and PCC post waney lap fencing.

It is considered that the proposal would fit in with the character of the area and would not form an incongruous feature within the street scene, therefore complying with policies SP1 and DM1 of the Core Strategy.

Footpath Closure – Whilst saved UDP policy DC22 states that ‘will not normally allow development which would result in unacceptable inconvenience to local pedestrian movement’, the issues set out above highlight that the problems requiring the closure of this footpath are somewhat unique to its siting opposite the shops on Merseybank Avenue, and the obliqueness of the footpath in terms of visibility throughout it. A clear case has been made by the applicant to show that there is demonstrable harm caused by the misuse of the existing footpath.

The footpath has a street lighting column at either end of the passageway, and two street lighting columns within the passageway, however, these alone have proved inadequate at deterring criminal activity.

The applicant has stated that the other passageways, such as the passageway running between Brandwood Avenue and Caldervale Avenue do not suffer from the same levels of fly tipping or ASB as the one they wish to close. The other pedestrian alleyways also have street lighting columns within them. However, Southway has stated that they are committed to using freed up resources from the closure of the Brandwood/Whiteholme alleyway on the remaining alleyways in Merseybank, including additional inspections, increased security measures, and litter picking to reduce fly tipping.

Access – It is considered that whilst the existing footpath provides a shortcut from Brandwood Avenue to Merseybank Avenue, it provides less than ideal access given the issues of fly tipping together with the narrowness and bend in the footpath. Pedestrians will still be able to use the pavements on Brandwood Avenue and surrounding streets to access the shops on Merseybank Avenue. It is acknowledged that this is slightly longer route but not unreasonably so. Furthermore, given the issues with anti-social behaviour and the risks to local residents wishing to use the footpath between Brandwood Avenue and Merseybank Avenue, the reality is that many local residents will already be walking this slightly longer route, which being on street, benefits from greater natural surveillance from house frontages and passers-by, along with better lighting and openness.

Conclusion - The proposed development will make a positive impact in terms of tackling anti-social behaviour issues within the area and preventing crime. The proposals are not considered to give rise to unacceptable impacts in terms of residential amenity or visual amenity of the area and therefore accord with the principles of Core Strategy policies SP1, and DM1 and saved UDP policy DC22.

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 approval of the application is proportionate to the wider benefits of approval 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

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.

Reason for recommendation

Conditions to be attached to the decision

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

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 garden layout after closure stamped as received 5th October 2018;
- Proposed boundary closure materials stamped as received 5th October 2018.

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 development hereby approved shall be completed in accordance with the materials specified upon the approved drawing 'proposed boundary closure materials', as follows:

34 Whiteholme Avenue: Timber and PCC post palisade fencing to match existing fencing.

Rear of 34 Whiteholme Avenue & 19 Brandwood Avenue: Timber and PCC post waney lap fencing.

19 Brandwood Avenue: Privet hedge infill.

Reason - In the interests of residential amenity and to safeguard the character of the area, pursuant to policies DM1 and SP1 of the adopted Core Strategy Development Plan Document for the City of Manchester.

Local Government (Access to Information) Act 1985

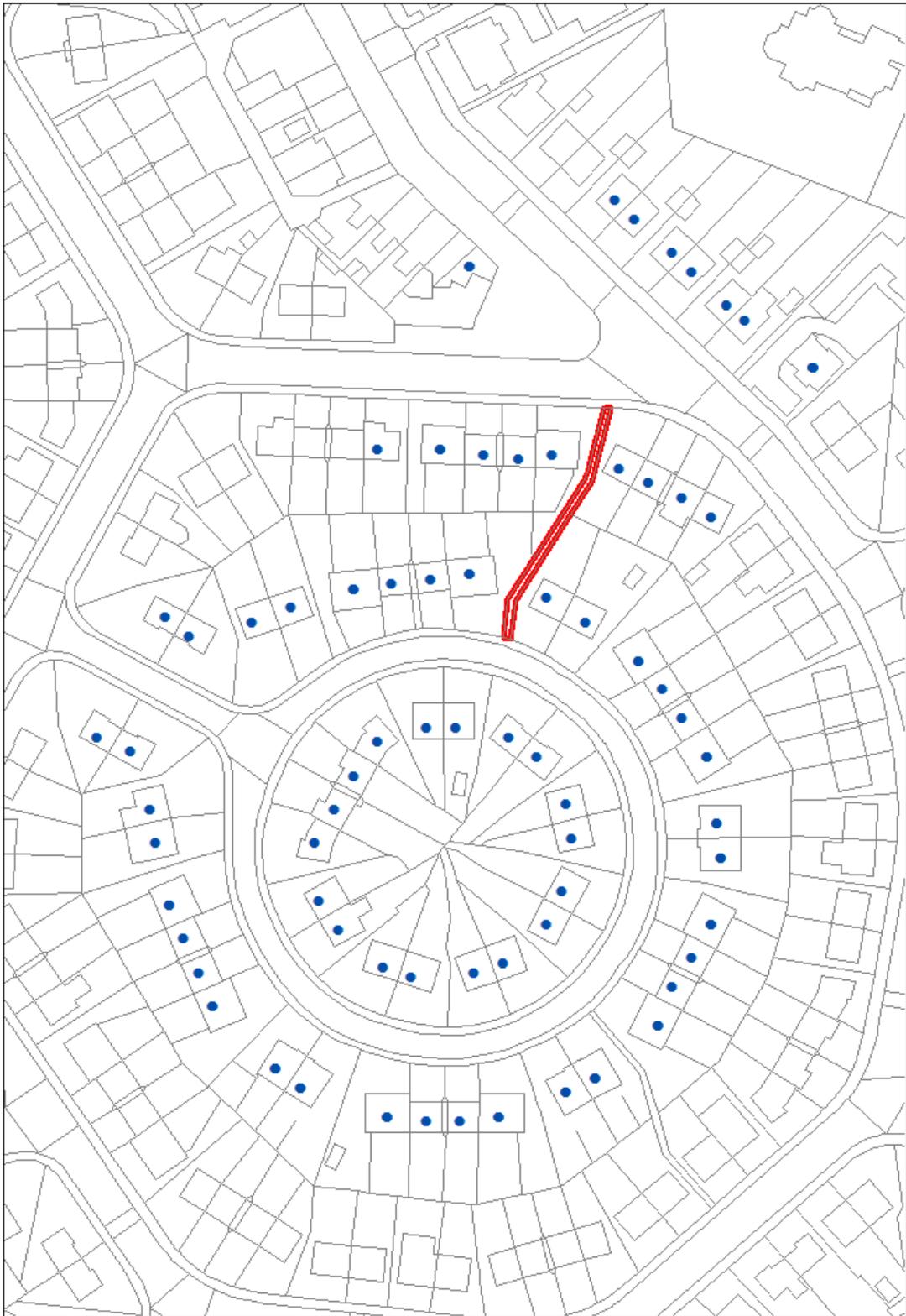
The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 121302/FO/2018 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions 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
Greater Manchester Police
Greater Manchester Pedestrians Society

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

Relevant Contact Officer : Melanie Tann
Telephone number : 0161 234 4538
Email : m.tann@manchester.gov.uk



 Application site boundary  Neighbour notification
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