

Case Name: Howard, R (On the Application Of) v Manchester City Council [2025] EWHC 1047 (Admin) (01 May 2025)

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Commentary: This was an unsuccessful challenge of the decision of Manchester City Council to grant permission for a multi-storey purpose-built student accommodation building in Hulme.

Facts

Having been submitted in May 2021, the application went before the Council's planning committee on a number of occasions between May 2022 and November 2023. At each of those meetings, the committee resolved to be "minded to refuse" the application, in line with the Council's "Planning Protocol for Members and Officers", in particular the section entitled "Decisions contrary to officer recommendation".

Following correspondence from a local campaign group reminding the committee of its ability to refuse the application and not merely be "minded to refuse", the application went before the committee again in January 2024, where the committee resolved to be "minded to approve" the application.

Planning permission was granted, subject to a number of conditions, in June 2024.

Grounds

The Claimant's challenge to the grant of permission was brought on two grounds, namely:

1. that planning officers materially misled the committee by advising that there was "no planning policy basis" for refusing the application pursuant to the committee's resolution that it was minded to refuse; and
2. that planning officers materially misled the committee by advising that members could not refuse to grant planning permission, instead advising that the committee must state that they were minded to refuse and wait for the application to be brought back to the next meeting.

Judgment

On ground 1, whilst the Claimant submitted that planning officers should have supported the draft reason for refusal already articulated by the committee and

provided a policy basis to support that reason for refusal, the Judge accepted the Council's submission that there was no legal basis for concluding that officers had a positive obligation to do anything other than provide the committee with the relevant information they needed to make their decision. In other words, the committee was entitled to make a decision which was contrary to officer advice by giving its own reasons for refusal which were not supported by such officer advice, provided this was properly recorded.

In respect of the Claimant's contention that the statement in the officer report that members refusing the application contrary to officers' advice would have to give reasons which had "no policy basis" was materially misleading, the Judge considered that this was an attempt to "isolate" and take the statement "out of context".

On ground 2, the Judge considered there to be nothing in the Claimant's contention that advice in respect of the Council's protocol was misleading to members. The Judge considered it clear that members of the committee would have been, and should be expected to be, familiar with the protocol, and the fact that it contained no obligation to adopt the "minded to refuse" procedure where members were willing to propose, and vote in favour of, a straight resolution to refuse.

For the reasons set out above, both grounds failed and the claim was dismissed.

Case summary prepared by Sophie Bell