



**7.5 Case Officer: Sue Jackson**

**Due Date: 20/04/2016**

**MAJOR**

**Site:** Former Bus Depot, Magdalen Street, Colchester, CO1 2LD

**Application No:** 160103

**Date Received:** 20 January 2016

**Agent:** Miss Laura Dimond, Maddox and Associates Ltd

**Applicant:** Mr Robert Oates, Victorial Hall Management Ltd

**Development:** Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across five blocks of one, two, three and four storeys to provide 230 bedspaces (61 cluster flats and 16 studio flats), communal facilities (to include bin stores, cycle stores, site management office, gym and communal amenity areas) as well as undercroft car park (20 car parking spaces), landscaping and a new public pathway through the site.

**Ward:** New Town

**Summary of Recommendation:** Conditional Approval subject to signing of Section 106 Agreement

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it is a major application on which material objections have been received; a legal agreement is also required.
- 1.2 The application has also been “called in” for determination by the Planning Committee by Councillor Theresa Higgins for the following reasons:-

“It does not follow the aspirations for the site as set out in the Magdalen Street Development Site Jan 2014. It is over development of the site, blocks E and D seem to be squashed into the site and are not sympathetic the listed buildings at the rear of the site. It does not provide any additional units of accommodation to the help with the Borough's housing target. New Town needs more accommodation to cope with an ageing population not another block of accommodation for a transient population. The buildings appear to have been set further forward than the indicative plans in the planning brief and as set out in paragraph 4.2: having large scale forecourts. This will not help the air quality management of the site. The planning brief for the area also suggests that the expectation will be three storey buildings. In this application the buildings fronting Magdalen Street are all 4 storey.

The parking provision as set out in the planning brief is for 100% parking, this application does not provide the requisite amount of parking. "The site layout plan shows a total of 20 car parking spaces, which equates to a site wide average of 0.09 spaces per bed. Whilst this level of parking is lower than the 0.20 spaces per bed requested by CBC during the course of pre-application discussions, it should be noted

that anticipated demands are anticipated to be in the order of just 0.04 vehicles per bed." this is the quote from the transport report.

This application will be detrimental to the amenity of the existing neighbouring residents. There is no amenity space provided for in this application".

## **2.0 Synopsis**

- 2.1 The application seeks full planning permission for the redevelopment of a brown field site for student accommodation; a sui generis use. The report describes the proposed development, the site and surrounding land uses.
- 2.2 The key issues explored below are the Magdalen Street Development Brief and other relevant policies; an assessment of and response to the representations; issues relating to air quality, highways/ parking, impact on adjacent properties and the surrounding area, heritage assets, flood risk and drainage are explained. Details of the proposed legal agreement are also set out.
- 2.3 The planning merits of the application are assessed and it is concluded that the development is acceptable, planning permission is recommended subject to conditions and a legal agreement being signed.

## **3.0 Site Description and Context**

- 3.1 The site is irregular in shape and is best described as rectangular with a small projection on the south boundary. It has an area of 0.4322 hectares and has twin frontages of 104 metres to Magdalen Street and 13 metres to Military Road and backs onto Winnock Road. It was last used as a bus depot and is owned by Colchester Borough Council. The supporting information states the site operated as a bus and tram depot for over one hundred years with different parts of the site being developed since 1904 when the municipal tram service opened. The Heritage Statement sets out the history of the area and the development of Magdalen Street and the application site.
- 3.2 The Magdalen Street frontage includes a range of buildings and hard surfaced areas which were used for parking buses and other vehicles. There are limited tree and shrubs on the site predominantly along the side and rear boundaries. At the east end of the site is a large parking area behind a high wall and gates with a dropped kerb access to the road
- 3.3 The former bus depot building extends from the front to rear of the site and has a road frontage of approx. 27 metres, is approx. 37 metres deep and the brick façade to the road is approx. 7.5 metres high with the corrugated metal roofs projecting a further 2-3.5 metres. This brick and rendered frontage is divided by a series of substantial brick piers, it has large areas of glazing plus massive doors 6.5 metres in height. Behind the brick façade is the corrugated metal shed with a series of shallow metal clad roofs. The site also contains corrugated metal sheds generally open to the road with shallow pitched metal clad roofs a maximum height of 9 metres. A former tram shed is set back from the Magdalen Street frontage but abuts Military Road where the red brick façade is locally listed. The rear elevation of one of the metal clad sheds also fronts Military Road. Between this shed and the boundary of adjacent Almshouses is a narrow sliver of land previously used as a means of access from the buildings. The ownership of this land is unknown and it does not form part of application site.

- 3.4 The site also contains other smaller buildings including an electrical sub-station and fuel storage plus repair/servicing areas. There are three vehicular access points to Magdalen Street.
- 3.5 There is a significant change in ground level between Magdalen Street and Military Road with the latter being at a higher level (approximately one storey). Section drawings of existing and proposed buildings clearly demonstrate the difference in ground levels and will form part of the presentation at the committee meeting. Kendalls Almshouses to the rear of the site are approx. 2.5 - 3.5 metres higher than the site.
- 3.6 Magdalen Street is a classified road and described as a Radial Feeder, Military Road also classified is described as a Secondary Distributor. There are double and single yellow parking restriction lines in operation outside the site on Magdalen Street and a single yellow line in operation outside the site on Military Road. Residential streets in the vicinity have residents parking schemes.
- 3.7 The site is 250 metres from the town railway station, and 430 metres from the bus station. There are bus stops on both sides of Magdalen Street and Military Road. Colchester town centre is close to the site with Culver Square and High Street being a 10 minute walk away.
- 3.8 There are a range of uses and building of various styles and heights along Magdalen Street. On the opposite side of the road are buildings of a traditional design some of which are locally listed, generally 2 and 3 storey in height and include retail, office and residential use. There is also a restaurant and an MOT garage. The recently constructed Emmaus building is of a contemporary style and whilst mainly 3 storey includes a 4 storey element; whilst the YMCA building which is also relatively new is constructed of brick with pitched tiled roof and is 3 storeys in height. To the east of the site is a recently constructed residential building of a traditional style, 3 storey faced in yellow brick with a pitched tiled roof, adjacent is the Aldi store with residential development above constructed of red brick under a pitched tiled roof. On the west side of the site is Robertson's self-drive vehicle hire in a 2 storey building the offices are in a converted dwelling with residential properties adjacent. Magdalen Street is generally an area of a mixed use including residential, retail including food retail, office and commercial uses which include restaurants, a car dealership, petrol filling station and MOT garage; there are also sections of undeveloped or underdeveloped frontage.
- 3.9 The rear boundary of the site abuts Kendall Almshouses, no's 1-16, Kendall Terrace are Grade II Listed buildings other Almshouses in this group are locally listed. These Almshouses are located very close to the site boundary with the main amenity area at the front of the buildings; they are within the New Town Conservation Area the boundary of which is the almshouses boundary. There are also Almshouses to the west of the site 8-22 Military Road also locally listed these properties have small rear gardens ranging in length from 4-9 metres where they back onto the site. On opposite side of Military Road is Winnocks Almshouses listed grade I. A former PH, no 25 Military Road on the corner with Golden Noble Hill is also listed and there is a further listed building on corner of Military Road and Magdalen Street.

## **4.0 Description of the Proposal**

- 4.1 The application is described “as proposing a dedicated student residence on the site”. The applicants Victoria Hall Management Limited established in 1996, is a private company that specialises in the development and management of purpose-built student accommodation. They provide high quality accommodation designed specifically for students. They own and manage over 7,000 beds throughout the UK. Their sites are designed to be safe and secure for occupants and surrounding communities”.
- 4.2 The application seeks planning permission for the demolition of the existing buildings and redevelopment of the site to provide student accommodation in five separate buildings; described as Block A, B, C, D and E, comprising one, two, three and four storeys. A total of 230 bedspaces will be provided in 77 units comprising 16 studios and 61 cluster flats. In addition to the bed spaces shared facilities including bin stores, 110 cycle spaces, a site management office, gym and communal amenity areas will be provided as well as 20 basement car parking spaces, landscaping and a new pathway through the site.
- 4.3 Blocks A, B and C are set back from the Magdalen Street carriageway by between 6.2 - 8.2 metres, this includes a widened footway of 2 metres. A loading bay is proposed outside Block B which will be used by service vehicles, deliveries and for dropping-off students during the initial move in. Cycle parking is also indicated to the front of Block B.
- 4.4 Block A is adjacent to the Robertson’s vehicle hire premises and is 3 storey with a central 4 storey element. A ramped vehicular access is proposed to 20 car parking spaces which are accessed from Magdalen Street via an undercroft and located at basement level and to the rear of the building. The provision of the basement car park will require a reduction in the ground level.
- 4.5 The ground floor of Block B includes facilities for the site and provides some active frontage with uses such as reception areas, communal rooms for the students, a laundrette and gym. The communal waste and recycling store is located adjacent to block B. This block is described as the “main security point from the site with all entrances to all buildings on the site visible from this corner”. Block B includes a 4 storey element recessed behind the frontage and a curved corner where it faces Block A.
- 4.6 Block C also fronts Magdalen Street and is part 3 part 4 storeys in height. The rear elevation of this Block steps up sequentially from one storey to two storeys, three and then four storeys as the distance from the rear boundary increases.
- 4.7 Block D is a smaller block and is located to the rear of the site adjacent to Kendalls Almshouses. The building has a curved roof and has no windows facing the Almshouses boundary. The building is 3 storeys high but is located at a lower ground level.

- 4.8 Block E includes the retained tram shed facade to Military Road the first part of new building is the same height as the façade then as the ground level is lower the block is 3 storey. Part of this building is above the parking area and this basement area also provides secure cycle parking.
- 4.9 The remainder of the Military Road frontage is opened up to provide a pedestrian link through the site to Magdalen Street. This link 4.9 metres wide at its narrowest point in effect creates a new street with the new buildings facing onto it. It is provided with a dropped kerb vehicular access and will be used by emergency vehicles to access the site. There is access from this path to the various Blocks and to courtyard amenity spaces between buildings and to areas of cycle parking. Sections of tram tracks are incorporated into these courtyards.
- 4.10 The supporting information indicates the footpath is proposed to be closed from dusk until dawn to ensure the site is safe and secure for students. Whilst it will be possible to wheel bikes along the path, as there will be a lot of pedestrian activity and cross movement between Blocks, cycling would not be appropriate.
- 4.11 The application proposes landscaping, including tree planting, along the Magdalen Street frontage and landscaped courtyards between the buildings.
- 4.12 Materials are indicated as brick elevations, plus small areas of timber cladding, a glazed facade to the communal areas fronting Magdalen Street and zinc cladding to the recessed four storey elements and flat roofs.
- 4.13 In addition to the application drawings and section the following documents are submitted:-  
Air quality statement  
Archaeological assessment  
Biodiversity survey and report  
Daylight and sunlight assessment  
Design and access statement  
Flood risk assessment and drainage strategy  
Health impact assessment  
Heritage statement  
Land contamination assessment  
Landscape details  
Noise impact assessment  
Planning statement  
Statement of community involvement  
Transport assessment  
Arboricultural report

## **5.0 Land Use Allocation**

- 5.1 East Colchester Special Policy Area  
East Colchester Regeneration and Growth Area  
Air Quality Management Area

## **6.0 Relevant Planning History**

- 6.1 The planning history relates to the former use of the site as a bus depot.
- 6.2 A preliminary pre-application enquiry for the use of the site to provide student accommodation was submitted last year.

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
CE2 - Mixed Use Centres  
CE2a - Town Centre  
CE2b - District Centres  
CE2c - Local Centres  
CE3 - Employment Zones  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment  
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity  
DP2 Health Assessments  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP18 Transport Infrastructure Proposals  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA H1 Housing Allocations  
SA EC1 Residential development in East Colchester  
SA EC2 Development in East Colchester  
SA EC5 Area 3: Magdalen Street

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill  
Vehicle Parking Standards  
Sustainable Construction  
Open Space, Sport and Recreation  
External Materials in New Developments  
Affordable Housing  
Cycling Delivery Strategy  
Air quality management Guidance Note, Areas and Order  
Managing Archaeology in Development  
Magdalen Street Development Brief

## **8.0 Consultations**

### **8.1 Essex County Council Flood & Water Management Planning & Environment**

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems • Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide • The CIRIA SuDS Manual (C753) • BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we object to the granting of planning permission based on the following:

Inadequate Surface Water Drainage Strategy

The Drainage Strategy submitted with this application does not comply with the requirements set out Essex County Council's Detailed Drainage Checklist. Therefore



the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

- Provide Information about discharge rates – Where possible rates should be limited to the greenfield 1 in 1 year rate
- Provide sufficient information about the discharge location. – The discharge hierarchy should be considered when looking for surface water disposal solutions. Current proposals suggest discharge to a combined sewer which is the least preferable option. Evidence should be provided to demonstrate that alternative discharge routes are not viable at this site. Furthermore evidence should be provided to demonstrate that the proposed discharge solution would be acceptable to the owner of the receiving network.
- Provide information about the required attenuation volumes. – these figures should provide an allowance for climate change.
- Demonstrate that the proposed drainage system will sufficiently treat surface water runoff. This should be in line with the latest guidance in the CIRIA SuDS Manual (C752).
- Take account of the Colchester Surface Water Management Plan. The site is located within CDA03 and therefore additional care should be taken when assessing the impact of surface water runoff from the site. • Provide a drainage plan showing indicative locations for drainage features.

**Officer comment:** *The applicant has submitted revised documents which are being considered by Essex County Council, it is anticipated their objection will be removed prior to the Committee meeting.*

## 8.2 Environment Agency

We have inspected the application, as submitted, and have no objection subject to the conditions set out below. We have also provided some advice on drainage and sustainability.

**Contaminated Land** National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121). The site overlies the superficial sands and gravels of the Kesgrave Formation/Lowestoft Formation (undifferentiated) designated as Secondary A aquifer. The London Clay Formation is the underlying bedrock, an unproductive deposit. The site is not within a Source Protection Zone. The Red Rock Geoscience Ltd, Phase 1 Desk Study, dated January 2016, has confirmed the previous use of the site does have the potential to have caused land contamination and, as such, site investigation and detailed risk assessment work will be required to determine the extent of contamination and the level of remediation required to ensure the protection of the water environment. We therefore consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

### 8.3 Planning Policy

#### National policy context

The NPPF (National Planning Policy Framework) contains various principles relevant to this proposal including commitments to promote vitality in urban areas and to encourage the effective use of previously developed land. The NPPF sets out a presumption in favour of sustainable development but maintains the primacy of Local Plans by requiring planning applications to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. Colchester has an adopted Local Plan comprising a Core Strategy, Development Policies DPD and Site Allocations DPD (and supporting Proposals Maps). The Local Plan is considered to be up to date and is not absent or silent on any relevant issues.

#### Local policy context

Relevant Council policy is set out in the Core Strategy (adopted 2008, amended 2014), Site Allocations DPD (adopted 2010) and Magdalen Street Development Brief (adopted 2014).

The Core Strategy includes a clear commitment to regenerate key locations of Colchester town to efficiently accommodate future growth requirements. Included in this strategy is the regeneration of east Colchester which is identified as a Growth Area in Policy SD1. The proposal site falls within this Growth Area as well as being situated in between the key regeneration areas of the Hythe and St Botolph's. Core Strategy Policy H1 sets out the Council's housing target from a spatial perspective and states 2,600 new homes are expected to be delivered in the East Colchester Growth Area up to 2021. Magdalen Street therefore plays an important role in the overall regeneration and housing delivery strategy set out in the Core Strategy.

The Site Allocations DPD (adopted 2010) contains a specific policy in relation to the regeneration of Magdalen Street. Policy SA EC5 Area 3 states that Magdalen Street will continue to attract the existing mix of commercial, residential, service and retail uses to complement its edge of centre location. The underlying purpose of this suggested mix of uses is to encourage vitality whilst ensuring future development does not affect the amenity of neighbouring housing areas.

In recognition of the site's potential, the Magdalen Street Development Brief was prepared and adopted in 2014. The development brief sets out the Council's expectations of future development proposals in the area including what it considers appropriate uses, accessibility improvements and suitable design principles which should be applied. The development brief also highlights the existing range of inefficient and inappropriate land uses in the area which provide significant opportunities for comprehensive redevelopment.

#### Conclusions

Whilst the proposal is for a purely residential scheme, not the mixed uses encouraged in the Site Allocations DPD, it falls within a wider area of mixed use developments on Magdalen Street including recent retail additions. The scheme satisfies the principal rationale for local policy in this area which is to facilitate the regeneration and redevelopment of previously developed land, situated in a very sustainable location. The proposal is considered to achieve these objectives and is therefore in accordance with local and national policy.

## 8.4 Urban Design Officer

The application has significantly improved informed by pre-application dialogue and due to the applicants responsive approach to issues raised. I feel the scheme now generally represents good design as defined in the NPPF and reasonably complies with guidance outlined in the adopted Magdalen Street Development Brief. I am therefore happy to support it, though with a few minor revisions which might be agreed through condition.

The scheme is relatively dense, though now realistically moderated and articulated in response to the local context, for example having regard to local character and neighbours, and positively contributing to the Magdalen Street scene. The height and massing of buildings should ultimately be design led in response to the context. Proposed buildings to Magdalen Street would be a varied mix of 3-4storeys, with the relative slight increase in general height mitigated by the building being set-back from the street, which effectively reduces the street enclosure, and top floor set-backs meaning from the street the frontage will be perceived as predominantly 3 storey. The use of flat roofs further minimises the sense of massing.

The massing would also be pleasingly broken down into more human scale parts and building plains (occasionally emphasised by gaps between buildings), in response to the area's historic plot-derived character, yet providing a coherent structure which is honest to the use. Street trees would further soften the street scene.

The scheme appears cleverly arranged, modelled and fenestrated to reasonably mitigate (privacy, outlook and shadowing) impact on neighbouring housing to the south and southwest, utilising beneficial levels and sunpath, e.g. (i) Block D is three storeys, though replaces a large building, is just over a storey below adjoining housing to its north (considering sunpath) and the 2nd storey is in an attractively recessive barrel roof form with no facing windows, (ii) Block C, which is also to the north, is stepped and windows positioned to avoid unreasonably overlooking neighbouring Almshouses, helped by boundary walls and land dropping approximately a storey in height into the site, (iii) windows to Block A (to the north) and E are angled to avoid unreasonable overlooking of neighbours, and (iv) Block E's immediate massing appears no worse than that existing seen from neighbouring homes to the northwest, would have no facing windows and the 3 storey element is further away and to the north.

The historic building frontage to Military Road is retained, whilst other features are incorporated including tram lines and motif.

The scheme's architectural expression is crisply contemporary, though has historic references and responds to specific contexts. It would complement the mixed local character setting and combined with the modelling of buildings provides reasonable design interest and distinction which should uplift the overall perception of the street, subject to reassurances over the use of high quality details and materials which will be important in carrying off the intended design style.

Car parking provision appears adequate for the particular residential use, assuming this is supported by the travel plan. It should also be noted that on-street parking is protected by local parking restrictions and I understand the legal agreement will not allow residents of the scheme to obtain on-street permits.

A much needed new pedestrian through-route is provided between Military Road and Magdalen Street. The juxtaposition and design of framing buildings and landscaping would provide an attractive, legible and interesting new street. Sadly, public access would be restricted to core hours, though I accept the applicant's reasoning for this being to secure the site out-of-hours relating to the particular residential use.

The Urban Design Officer has suggested minor amendments to the scheme and these revisions have been included in revised drawings.

## **8.5 Highway Authority**

Due to the nature of the proposal, the Highway Authority is content it would not be detrimental to highway capacity and safety. The site is also accessible to local services and public transport facilities. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

## **8.6 Historic England**

### **Summary**

The proposed redevelopment of this major site adjacent to the Colchester New Town Conservation Area would transform the appearance of this section of Magdalen Street in a positive manner. Historic England is satisfied that the scale, massing and detailed design of the overall scheme are contextually sensitive and we would have no objections to the approval of the planning application.

### **Historic England Advice**

Historic England consider that whilst the existing bus depot buildings do provide an intrinsically positive architectural contribution to the streetscene, the application site does not lie within the conservation area and we would not object to their demolition. The proposed change of use of the site to residential would have greater conformity with surrounding land uses and we are satisfied that the scale and massing of the five accommodation blocks, with a maximum height of four storeys - penthouse storey set back - would not be overbearing in this prominent location. They would not cause harm to the setting of the listed Kendall Almshouses. Whilst the new development could not be set at back of pavement as before for environmental health reasons, the resultant siting of the blocks provides the opportunity to soften their immediate setting. The proposals would be in accordance with guidance in the National Planning Policy Framework and our view is that on balance, the character and appearance of the proposed student accommodation would enhance the streetscene of this part of Magdalen Street.

### **Recommendation**

Historic England consider the proposed redevelopment of this major site would not cause harm to the significance of the setting of the abutting grade II listed Kendall Almshouses or the adjacent Colchester New Town Conservation Area. The scale, massing and detailed design of the residential scheme would be an enhancement on the current streetscene in this prominent location on Magdalen Street. We would have no objections should your authority be minded to approve the application for planning permission.

## 8.7 CBC Recycling Manager

In their Design and Access document they state: On collection day the site manager will take the bins to the front of Block B and they will be collected from the servicing/loading bay. Is the site manager permanently based on site, as the bins will need to be presented at 07:00am on the day of collection, and what will happen if the loading bays are occupied when the vehicles turn up, as there appears to be no other parking or stopping point? I would like to point out the vehicles, depending on operational issues could arrive on site anytime between 07:00am and 4:00pm on the day of collection.

**Officer comment:** *In response to these comments, Victoria Hall Management has confirmed that there will be management present on site 24/7, so they will be able to ensure the bins are taken out at 7:00am.*

*In response to the query relating to the functioning of the loading bay, our transport consultant has confirmed that the loading bay will be subject to a Traffic Regulation Order that restricts its use for loading activities.*

## 8.8 Environmental Protection

No objection subject to conditions.

## 8.9 Environmental Protection Contaminated Land Officer

A Phase 1 Desk Study Report has been submitted in support of this application. This report is acceptable for Environmental Protection purposes. It has identified some potential sources of contamination which require further (intrusive) investigation and risk assessment, including ground gas risks. The applicant's attention is drawn to their consultant's recommendations with respect to asbestos and unexploded ordnance.

However, based on the information provided, it would appear that the site could be made suitable for the proposed use, with the necessary additional investigations and (where necessary) remediation and validation dealt with by way of condition. Consequently, should permission be granted for this application, Environmental Protection would recommend inclusion of conditions.

## 8.10 Archaeologist

The proposed development is located within an area of high archaeological interest. The desk-based assessment has shown the application site to have a high potential for encountering medieval and post-medieval activity, particularly along the street frontage, and potential for earlier archaeological remains. In addition to below-ground remains, the application concerns the redevelopment of the Former Bus Depot, part of which is a locally listed heritage asset and aspects of the building are of historic significance.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

## 8.11 Landscape Officer

It is recommended that if the current proposals are agreed in principal at this stage then compliance with the recommendations regarding tree species, location and planting specification should be secured under a bespoke condition in support of the above recommendations, i.e. a bespoke condition ensuring that any detailed landscape proposals that are submitted to discharge these conditions are drawn up strictly in accordance with the recommendations outlined in this consultation, notwithstanding the current proposals.

**8.12 Natural England** has no comments to make on this application.

## 9.0 Parish Council Response

9.1 N/A

## 10.0 Representations

10.1 A single representation in support and 11 objections have been received (not all the objections are from residents adjacent to the site)

1.0.2 The Clerk to the Winnocks and Kendalls Almshouse Charity has submitted the following objections: The Charity is the land owner to the south of the site of the bus depot and is concerned that as land owners clearly affected by the proposed development we have not received any notification relating to the application.

**Officer comment:** *The Almshouses were each notified individually.*

10.3 We have been in touch with the Chief Executive Officer of your Council, to ask him for details relating to the ownership of the boundary and retaining wall between the bus depot and our property. The integrity of this boundary and retaining wall is of vital interest to the Charity. It will be a necessity of entering into a party wall agreement with the developers. We would wish to know what conditions you will place upon the developers regarding sustaining the integrity of the retaining wall. Would you place a bond on the developers whereby the possible costs of damage to the retaining wall are insured by them? Kendall Terrace is a Listed Grade II\*. It is situated within 10 meters of the retaining wall. Will you be reporting the application to the English Heritage for their comments regarding the planning application? When asked at the exhibition by the proposed developers with regard to their plans for student accommodation as to what parking requirements the students would have and be provided with we were told that students would not be allowed to have cars. This is somewhat surprising and we are particularly concerned as to the effect on New Town of having cars parked willy nilly and causing disruption to residents living in the immediate area. We were told that no survey had been commissioned by the proposed developers as to the demand for student accommodation at the proposed site. This calls into question the viability of the whole scheme. We would not wish to see a development which would be subject to risk of not meeting economic viability. We trust this matter will be called in by your Council for consideration by the full planning committee and will not be delegated to officers for decision.

**Officer comment:** *Whilst land ownership and boundaries are not a planning matter in this instance the Council is the land owner. CBC Estates Manager has responded "I have met Mr Siggs on site to discuss the issue of the boundary walls – the meeting was amicable and we agreed that the neighbour would be consulted by the developers*

*in the normal way once planning is secured and before construction commences. It is noted that along approximately half the boundary of the site is an existing footpath which provides a buffer between the alms house site and the former bus depot. There will not be any party wall issues along this portion. Effectively the wall to the perimeter of the alms houses will not be affected. Of the remainder of the boundary part is the wall of the existing bus depot building and part is a boundary wall. The walls of the existing bus depot building on the boundary are owned by CBC and are not party walls. The remaining boundary walls are thought to be owned by CBC. Where the walls on the boundary are existing bus depot building these will be either fully or partly demolished down to approximately 2m in height as part of the redevelopment and as appropriate a suitable boundary treatment will be reinstated. There are no plans to demolish any of the remaining boundary walls. We do not think it is appropriate to impose any overriding obligation on the developer for any boundary wall or party wall agreement or the need for insurance at this stage. The onus will be on the developer as part of its works to ensure that no nuisance or detriment is caused affecting the alms houses site”.*

#### **10.4 Sir Bob Russell**

The application is contrary to the 2014 Magdalen Street Development Brief. The proposed use density and height are contrary to the brief. What from the brief of substance or recognisable status is there in the application?

The application makes this the worst propose development ever to be inflicted on New Town Ward. The proposed development is not in accordance with other new buildings such as the YMCA Foyer, Emmaus, Aldi with flats above and the 3 residential infill schemes on the other side of the street. The appearance is bad enough but to cram so many students into one development within feet of listed Almshouses is totally unacceptable to the elderly residents and to the students. Late noise parties and other student behaviour is inevitable and who will police it

I strongly urge the council to reject the application as being inappropriate to the area due its height density high concentration of student accommodation in close proximity to established elderly persons accommodation and in appearance not in accordance with other recent development in the area which is in accordance with the historic character of the area.

I have also previously requested that the end wall in Military Road is retained in any development.

#### **10.5 Other objections**

One supports the comments made by Sir Bob Russell. Other objections are summarised below:

- There are already too many houses and flats in the area, the development should be built nearer the university.
- Magdalen Street is already suffering from air pollution with the high traffic throughput, so a smaller development would not have such a detrimental effect.
- Colchester is already overwhelmed with 3, 4 and 5 storey flats and this should be controlled, particularly when they overlook ordinary houses.

- The developers have clearly attempted to squeeze maximum profit out of this site by creating a monster complex which is too high, deep and ugly.
  - The authority should be extra mindful of the problems already attached to this locality being only 200 metres from Kebab Alley (aka St Botolphs Street).
  - The authority via street wardens, or the police, will never be able to keep the lid on problems. They don't have the resources.
  - It will take the council's 'vibrancy' policy to a new level and be marvellous for the "up to 3am" night time economy. But will be no joke for neighbours in Magdalen Street or anyone else with an eye on how the area is changing.
  - Surely, The CBC's goal is to make Colchester T/C a more pleasant place to visit by careful planning and improving community relations. Approving these plans for this purpose will send it backwards.
  - The style and size of the building is completely out of character with the area. At least the Aldi building has brickwork facades and some attempt at character. The proposed style may be OK in the 'flat city' of Hythe, but not here on the edge of the conservation area. Magdalen Street deserves better than this, now recovering after years of neglect and blight.
  - It seems a great shame that one of the few buildings of any architectural merit is to be demolished to make way for yet another ugly utilitarian student ghetto. This building should be preserved as the starting point of a genuine regeneration plan for the area. No proposal should be permitted which destroys the original tram depot and facade of the bus garage in their entirety. The historical merit of these buildings should not be underestimated. With sympathetic redevelopment, their architectural merit can also shine. If this is approved, those responsible will have irreparably destroyed a part of Colchester's heritage.
- Officer comment:** *Historic England was consulted and do not object to the demolition nor development please see response set out above.*
- Surely the planning process is about scrutiny of proposals to ensure the long-term benefit of the town, not the short term financial benefit of property developers? If we must take more and more houses and homes, should we not at least make these developers pay to create the highest quality developments?

**10.6 Colchester Cycling Campaign** This is not a good site for student accommodation unless cycling and pedestrian links to the town centre and university are vastly improved to the standards of the East-West bike route currently being built in London. Thought should be given to putting such tall buildings on a busy road. The height could lead to a canyon effect whereby cancer-causing vehicle fumes are trapped at street level, increasing the dangers of air pollution; I believe this would have implications under the Human Rights Act. If the plan is approved CCC would like to see a substantial s106 or CIL supplement towards local cycle routes.

**10.7** Residents of two of the almshouses have objected for the following reasons

- The bus garage was far too close in proximity to the flats making the noise almost unbearable at times, especially at night. Noise from students will be just as intrusive and may possibly be present much of the day as well as at night.
- Whilst from the plans it does not appear that there will be any four storey flats immediately behind the boundary wall, there does appear to be some accommodation planned close to the wall, possibly creating a noise problem.
- There is no car parking within the gates of the almshouses and I have a parking permit which enables me park in recognised areas of street parking. There are already insufficient spaces for all those who wish to park



- Before the public house opposite Winnock Road closed down there were often problems with young people becoming very rowdy and frightening some of the residents. There are elderly and very vulnerable people living here who are worried about this development and who do not seem to have been considered when it was conceived.
- In the wider context, the planned flats do not appear to be in keeping with the area

10.8 One letter of support “I strongly agree with this proposal as there is a requirement for good quality student housing in Colchester but have the following 2 concerns with the development.

1. There are bus stops on both Magdalen Street and Military Road adjacent to this development please can bus stop lay byes with bus shelters be installed on both of the respective roads to ease traffic flows. As both Magdalen Street and Military Road can get very congested with traffic especially at rush hour I feel this would be a positive development.
2. As there are an increasing number of disabled students at the university. I question why a room with disabled facilities and a disabled car parking space has not been designated in the plans.

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

11.1 Members should note that there is no specific category within the adopted Car Parking standards that deals with off-campus student accommodation. The Maltings development for student accommodation at Haven Road achieved 1 space for 5 students applying the nearest applicable standard for residential education establishments - Further/Higher Education where a maximum vehicle parking standard is 1 space per full time equivalent staff + 1 space per five students.

11.2 This application proposes 20 spaces which equates to 0.09 spaces per bed space. However the applicant estimates the demand will actually be lower at 0.04 vehicles per bed space.

11.3 The supporting information states that “the proposed parking spaces will be reserved for staff, disabled students and essential users (e.g. students that are enrolled on courses that require them to use a car perhaps due to ‘out of hours’ commitments). Those students that are not eligible for a parking space will be required to sign a lease that includes a clause preventing them from bringing a vehicle to Colchester during term time.

A Travel Plan is proposed to encourage students to make use of more sustainable modes of transport when travelling to/from the site and an Operational Management Plan will be implemented which will include measures relating to pedestrian, cyclist and vehicle access, as well as measures to manage student arrivals and departures at the beginning and end of the academic year.

- 11.4 The supporting information indicates the key elements of the Operational Management Plan in relation to traffic and parking management in these periods are:-

**“Student Arrivals:**

The vast majority of student arrivals are evenly spread over a three-day period (i.e. Friday to Sunday) between 9am and 6pm, usually during the third week of September; Prior to arrival, every student is allocated an arrival slot (for duration of circa 20-minutes) and is provided with directions to the site. All students are informed that once belongings are unloaded, cars must be removed to nearby public car parking.

Residents will also be encouraged to use nearby public car parks rather than parking directly outside the site for unloading; albeit the shared footway / drop off / pick up and loading bay provided on Magdalen Street will also be made available.

The Halls management team will employ students to act as guides/traffic marshals, who manage the flow of vehicles.

Students will also be employed to help unload cars so that they can be moved to nearby car parks.

**Student Departures:**

Students move out of accommodation more gradually, over a period of 5-6 weeks during late May to June, meaning there is not the same pressure as during the arrivals period.

During the departures period, students will be able to utilise the drop off/pick up layby provided on Magdalen Street to collect their belongings. Cars will not be permitted to be left unattended, and once loading has finished students will be directed to nearby public car parks.

Such management strategies have been successfully employed at other existing halls of residence operated by Victoria Halls across the UK”

The above parking standard requires 1 cycle space per 5 staff and 1 cycle space per 3 students - 110 spaces are proposed which exceeds this standard.

## **12.0 Open Space Provisions**

- 12.1 Whilst Policy DP16 of the Adopted Development Policies document states residential development will be expected to provide publicly-accessible areas of open space and as guideline at least 10% of the gross site area should be utilised for this purpose, Members are advised that there is no specific policy standard that relates to the provision of student accommodation.
- 12.2 The submitted scheme includes a landscaped area to the Magdalen Street frontage. It also proposes a pedestrian link between Magdalen Street and Military Road which will be available for public use between dawn to dusk. In addition there are courtyard amenity areas of hard and soft landscaping within the site between the buildings.
- 12.3 The proposed amenity space provision is considered acceptable and in terms of the areas of the site visible in the public domain these will enhance the amount of green space.

## 13.0 Air Quality

- 13.1 The site is within the Air Quality Management Area. The specialist consultant employed by Environmental Protection to assess the Air Quality Assessment Report has commented:-

“I have taken a little time to assess this report. The design of the buildings won't introduce further street canyons (although some are raised in height) and modelling predicts that they may actually improve pollutant dispersal consequently reducing concentrations at the existing properties in Magdalen Street opposite the site.

Exceedances of NO<sub>2</sub> were predicted at the north façade of Block A and Block C and mechanical ventilation is proposed for this location to prevent exposure. I would note, that the existing AQMA will need to be extended to cover these properties as per Defra guidance.

- 13.2 Along with the mechanical ventilation, other mitigation measures have been proposed;
- Provision of a Travel Plan – This should be monitored
  - Electric heating to avoid NO<sub>x</sub> emissions from boilers raising background pollutant concentrations
  - 110 secure cycle parking spaces
  - 2 EV charging points 10% which is consistent with the draft Technical Guidance for Air Quality
- 13.3 Subject to the above mitigation being conditioned and provided, I am satisfied that the development (with the proposed mitigation) is acceptable on air quality grounds. For the mechanical ventilation, this should be a suitable domestic system compliant to the relevant British Standard and Building Regulations and that a plan of commissioning, ongoing inspection, filter replacement and other scheduled maintenance is required.

*Officer comment: These requirements could be secured by conditions.*

## 14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that were considered appropriate and satisfy the CIL tests and will be agreed as part of any planning permission are
- Upgrading of 8 buses with a catalytic reduction system
  - Upgrading to current ECC specification including real time information of a bus stop
  - Travel Plan including monitoring
  - CCTV (the applicant will be installing a private CCTV system) a link is sought to the Council's CCTV network
  - Provision of a pedestrian link through the site to connect Military Road to Magdalen Street
  - A prohibition on students being issued with a residents parking permit
  - Widening of footways to Military Road and Magdalen Street

## 15.0 Report

### Policy Context

15.1 Policy SAEC2 and SAEC5 in the Site Allocation Document are relevant to this application and are summarised below;

#### Policy SA EC2 Development in East Colchester

Development within the East Colchester Regeneration and Growth Area will be permitted provided it complies with all the relevant key criteria, as set out below:

- All developments shall provide for a balanced and integrated mix of uses that are compatible with the comprehensive regeneration of East Colchester as set out in the Core Strategy
- Contributions will be required from all developments towards the provision of infrastructure and/or environmental. Where appropriate contributions will also be sought towards the delivery of a comprehensive network of footpaths and cycleways across the whole of East Colchester, Public transport improvements, Environmental enhancements to improve green links through the area.
- All applications for development will be required to include, where appropriate; a transport impact assessment; flood risk assessment; proposals to provide and/or enhance infrastructure for the community or the environment; proposed decontamination measures.

15.2 Adopted site allocation

#### Policy SA EC5 Area 3: Magdalen Street

To the north of Magdalen Street, housing areas will be extended and consolidated, but other small-scale uses will be permitted provided they are compatible with the overall housing proposals. New development on the south side of Magdalen Street shall continue the existing mix of commercial, industrial, service and retail uses. Proposals must not adversely affect the amenity of neighbouring housing areas. Development shall accord with the more detailed criteria set out in the adopted Magdalen Street SPD.

15.3 Development Brief

The development brief is a supplementary planning document and is a material consideration in the determination of the application but the brief clearly states that it is not intended to be prescriptive, but is to be used to guide future development in the area. The brief is part of the decision making process and weight will be given to the details during the determination of relevant planning applications. The document provides general information for members of the public about possible future changes in the area and what type and form development may take.

15.4 The brief considers sites on the edge of the town centre which currently have relatively inefficient land uses and considered suitable for regeneration. These sites with the existing range of local facilities and uses makes this part of the borough a sustainable location.

- 15.5 The brief identifies the “vision for Magdalen Street is to regenerate this street as a 21st century gateway to the town centre. In virtually every town and city there is a pattern of small scale mixed use environments combined with houses and flats. For Magdalen Street there is the opportunity to create a vibrant community and small scale, compatible uses associated with an edge of centre gateway. Architecturally the Council will seek contemporary responses to the existing character and densities appropriate to the edge of centre location. In most sites the expectation will be for three storey development with ground floors that offer a robust range of small scale use opportunities”.
- 15.6 The purpose of the brief is to:
- Provide a sustainable and coherent development framework for the area that promotes comprehensive redevelopment of the sites;
  - Provide details of the local and national policies relevant to this area;
  - Outline the key constraints in the area and the opportunities that exist;
  - Promote a mix of uses that can co-exist and complement uses elsewhere in the vicinity;
  - Outline the Council’s expectations of delivering improvements to accessibility of the area by walking and cycling, community infrastructure, the public realm and streetscape, and improving the air quality through the redevelopment of the area; and
  - Outline the design and development principles and the parameters of expected design quality.
- 15.7 The development brief provides the basis for a coordinated and comprehensive approach to future development that can achieve greater economic, social and environmental value in the area. The development brief provides a guide for proposals and must be considered alongside adopted local and national policies. The development brief therefore does not preclude student accommodation or buildings with 4 storey elements. What the brief does require is for any development to minimise impact on the Air Quality Management Zone for traffic levels associated with any development to be limited, buildings to be set back from the carriageway with large scale forecourts and tree planting and for a reduced parking standard to be considered. This proposal requires limited parking and would generate a very low level of traffic, the buildings are also set back from the carriageway and tree planting is proposed to the road frontage. The brief promotes an active frontage to Magdalen Street and whilst the proposed development does locate the communal facilities along part of this frontage they will not achieve the same degree of activity as shops or commercial uses. However this is not sufficient reason to refuse the application.
- 15.8 The brief describes the area as “mixed-use of predominantly commercial buildings interspersed with some residential units. Building styles at the western end of Magdalen Street largely reflect its development in the late 19th and early 20th century and are of primarily red brick construction. Various nationally and locally listed buildings are found within this area which provide an important historical context that should be enhanced and incorporated into any future design and site layout”. The development retains the locally listed tram shed faced onto Military Road and tram lines are incorporated into the amenity space. The impact on heritage assets is discussed in more detail below. The brief also promotes a pedestrian link between Magdalen Street and Military Road and this is included within the layout.

## **Design and Layout**

- 15.9 A contemporary architectural style is proposed; the development brief indicates a contemporary approach is acceptable. The elevations are predominantly brick; red, dark and buff bricks are indicated, and the buildings have flat roofs. The detailed design includes elements of timber cladding, zinc cladding and curved roofs. The retained façade of the tram shed will have a tiled roof.
- 15.10 The buildings front Magdalen Street and Military Road and provide built form in the street scene where currently there are unsightly gaps. The proposed buildings to Magdalen Street are set back behind a soft landscaped strip. The buildings also face a pedestrian link through the site. The buildings will each appear as a separate structure due to the gaps between them, the use of curved elevations, and fourth floor elements being recessed and the use of a different material –zinc cladding. A plaque of the borough coat of arms will be installed on the frontage following demolition of the existing building.
- 15.11 It is considered the contemporary design would complement the local mixed character and the modelling of the buildings provides design interest. The Urban Design Officer has referred to the importance for high quality details and materials and conditions requiring materials and finishes to be approved plus large scale drawings of all the architectural features including window reveals, recessed water goods and windows and ground floor glazing are proposed.

## **Scale, Height and Massing**

- 15.12 The proposed development comprises 3 blocks; Blocks A, B, and C, fronting Magdalen Street. Each block is broken up with a varied roof line and elevational treatments. There is a gap of 5 metres between Block A and Block B, which will allow views through the site and also breaks up the massing of the development. These 3 blocks comprises both three and four storeys elements with the taller four storey elements located towards the centre of each block and the lower elements to either side. In some places the 4 storey element is recessed behind the frontage and is also constructed of a different material. Whilst the development includes some 4 storey elements the development is below the ridge height of the adjacent residential development in Magdalen Street. The elevation drawings show the proposed buildings and their height relative to adjacent buildings.
- 15.13 Blocks D and E are located behind Blocks A and B. Block C will however extend close to the rear boundary with the Kendalls Almshouses but will decrease in height towards the boundary; this element is described in more detail in the “Impact on neighbouring properties” section below.

- 15.14 Blocks D and E are located on the southern side of the site. Block D is part-two and part-three storeys in height, and block E is part-one, two and three storeys in height. It is considered that the scale and massing of the proposed development is appropriate in the context of the surrounding area, and scale of surrounding buildings in this edge of centre location.. Given the changes in ground levels, the first storey of the proposed new development sits below the ground level of the Kendalls Almshouses to the rear. The rear garden wall to the alms-houses is also quite substantial in height. As such, in places 2 storeys of the proposed scheme sit, almost entirely, below the existing garden wall.
- 15.15 The locally listed façade of the former tram shed is retained and incorporated into block E on the Military Road frontage.
- 15.16 Members will note that the development does propose some elements of 4 storeys but the majority of the built form is lower. In considering the appropriateness of the heights of the development it is important to consider the context of the surroundings and the change in ground levels between Magdalen Street and Military Road. There are various redevelopment schemes in the area including the Emmaus and YMCA buildings the former has a 4 storey element. Residential development on the east side of the site is 3 storeys height but the pitched roof means it is higher than the 4 storey elements of the proposed buildings. It is considered that the design and arrangement of the development is acceptable within this setting. The upper storeys are generally set back from the principal façade in the manner of a penthouse. The curved nature of elements of the buildings and the use of materials will help to break up the mass of individual elements. Furthermore the higher elements of the development would read as a series of smaller scale projections that would add visual interest to the roofline of the building.

### **Impact on Surrounding Area**

- 15.17 The current appearance of the site which comprises vacant buildings and unsightly gaps presents an unattractive and run-down appearance on one of the main approaches to the town centre. The proposal will have a positive impact in the street scene. It will also introduce a soft landscape edge incorporating trees across the frontage in a street which currently has limited landscape features.
- 15.18 The use will generate limited vehicular movements this is also a positive impact particularly when compared to the previous bus depot use, which included buses travelling along the road as well as maneuvering within the site.
- 15.19 The frontage to Military Road will also be improved by the demolition of the depot sheds and the opening up of the frontage to provide a pedestrian link. This link would benefit local residents providing easier and safer access to town centre, the Town station and other bus services. Local businesses are likely to benefit from an increase in trade.

## Impacts on Neighbouring Properties

- 15.20 The scheme has paid regard to the amenities of neighbouring properties; in particular the Almshouses to the side and rear. The cross section drawings show the height and location of the Almshouses and proposed building; these drawings will form part of the presentation to committee and will demonstrate how the buildings have been designed so they are not overbearing and do not overlook neighbouring properties. The uses next to the site on the Magdalen Street frontage are Robertson's vehicle hire premises and a flatted residential building it is considered there is no adverse impact on these properties.
- 15.21 All the blocks have the potential to have an adverse impact in terms of overlooking of the Almshouses, these issues are discussed below and it is explained how the design prevents any adverse impact.
- 15.22 Part of the rear elevation of block A faces towards the rear of 16- 22 Military Road however the rear of this block is approx. 13metres from the boundary and the rear elevation has a "saw tooth" profile and the proposed windows are aspected towards the internal court yard not the rear boundary. Block B, with the exception of the fourth storey element is hidden by Block D. The windows in the fourth storey element of Block B are at the same level as the roofs to Kendalls Almshouses and are located some 15 metres from the boundary.
- 15.23 Block C, which is "T" shaped extends close to the boundary with Kendalls Almshouses but the number of storeys reduces towards the boundary. There is a significant level distance at this point; the top of the garden wall of the Almshouses is 5 metres above the ground level - the first full storey is below the garden wall so is not visible from that level. The third storey of this block would be just below the roof of the Almshouses and set some 8 metres from the boundary. Where this building is close to the rear boundary rooms are lit from the side and the closest windows in the rear elevation will be a minimum of 13 metres from the boundary.
- 15.24 Block D is close to the rear boundary with Kendalls Almshouses currently there is a metal shed along part of this boundary higher the proposed building. The design of Block D includes a curved roof towards the Almshouses with no windows on this elevation. Again the section drawings demonstrate this building will not overlook or have an overbearing impact on residents.
- 15.25 Block E extends along the side boundary of 22 Military Road, the site has a substantial metal shed extending the full length of the side and rear boundary of this property. This shed is on the boundary with windows on both side and rear elevations. Block E will be located away from the side boundary it also has a much smaller foot print, and has no windows looking towards no 22. Where the side elevation of this building fronts the internal path the elevation has a "saw tooth" profile and windows are angled towards the road.
- 15.26 Due to difference in ground levels, profile of elevations and position of windows residents of the Almshouses will not suffer a loss of privacy and buildings will not appear overbearing. In fact some residents will have an improved amenity by the demolition of large high buildings and removal of overlooking windows. All the residents will benefit from the removal of the bus depot use.



- 15.27 The development has been designed so there are no doors facing onto the boundaries of the site and all the accommodation is accessed from inside the scheme. The proposal includes a private CCTV system to provide internal and external coverage across the whole development including the amenity areas, external elevations, security gates and building access. The CCTV coverage will provide visual coverage on monitors within the management office. The supporting information states “the site is overlooked by a security suite located on the corner of Block B. It has a view of the main entrance, a view of the Military Road entrance, a view of the entrance to the site from the car park and a good overview of the entrances to all the Blocks which are accessed from inside the site”
- 15.28 It is considered the applicant has had regard to the amenity of neighbouring properties in developing the detailed design and layout of the scheme which has produced a development which is sensitive to its location, sits comfortably within the site and will not have an adverse impact on its neighbours.

### **Highway Issues**

- 15.29 It is noted the Highway Authority raises no objection to the application.
- 15.30 The proposed use of the site will generate far less vehicular traffic than the former bus depot use and will not have an adverse impact on the road network. The existing vehicular accesses to Magdalen Street will be closed and 2 new ones proposed. The western access will be ramped into a basement car park while the more central access road will be used as a vehicular access for emergency vehicles only, and its primarily function will be to provide a pedestrian link.
- 15.31 The parking provision is discussed above; the level of provision is considered appropriate. Twenty car parking spaces are proposed and will be used for on/offloading on moving days, staff, disabled parking and any other maintenance or management related activities. Two of these spaces will have electric chargers provided in order to encourage the use of electric cars and reduce overall emissions. A Travel Plan and measures to reduce the reliance on private car travel including the provision of secure cycle parking spaces and cycle and pedestrian access links are proposed. Although the proposal will not result in a material impact on local transport networks mitigation measures are proposed and comprise an Operational Management Plan to minimise disruption at the start and end of the academic year and the Travel Plan. The scheme will provided 110 secure cycle spaces, in various locations around the site, this represents a 48%cycle parking provision in order to encourage and promote this as the main mode of private transport.
- 15.32 The use will generate far fewer trips than the previous use and will not have an adverse impact on the road network. The site is in a sustainable location close to the town centre, bus stops and train station and is acceptable in highway terms.

### **Air Quality**

- 15.33 The site is within the Air Quality Management Zone.

- 15.34 Environmental Protection was concerned that changes to the local urban topography could result in air quality impacts during the operational phase of the development in addition to the construction phase. The submitted information includes an assessment of the air quality impacts of the development during both phases.
- 15.35 The results of the assessment indicated that impacts on annual mean NO<sub>2</sub> concentrations as a result of the proposed development are predicted to be of substantial beneficial at two locations, moderate beneficial at one location, slight beneficial at four locations, moderate adverse at one location and negligible at two locations. The overall beneficial effects are attributed to a reduction in traffic generation from the site, as well as increases in canyon widths at some locations on Magdalen Street as a result of the new buildings. The development also has the potential to expose future occupants to elevated pollution levels and mitigation in the form of mechanical ventilation has been recommended for a number of units.
- 15.36 The proposed development incorporates a number of design features to mitigate any likely impacts on air quality. These design features have been established within the indicative layout plan within the Council's Magdalen Street Development Brief. Gaps have been included between the buildings to prevent a 'canyon' effect from forming on Magdalen Street. The gaps allow air pollutants to disperse. Furthermore, blocks A, B and C are set back from the public footpath. This set back allows for the inclusion of a soft landscaping strip (including tree planting) to be located in front of the blocks. These measures assist in mitigating any impacts on air quality.
- 15.37 Further mitigation measures are set out in the Air Quality Section above.
- 15.38 The development brief expects developments to include measures that reduce emissions and improve air quality. The proposed use will generate only low levels of traffic and this should have a positive impact on the AQMA. In fact this use will generate significantly fewer movements than the bus depot and probably less than other potentially acceptable uses.
- 15.39 The Council's specialist consultant has confirmed no objection on air quality matters subject to the proposed mitigation measures being provided.

### **Drainage/Flood Risk**

- 15.40 The site is within flood zone 1 where Government policy directs new development. The submitted flood risk assessment provides an assessment of the risk of flooding to the proposed development. The report concludes that the site is situated in Flood Zone 1, which is defined as having a low annual probability of flooding and overall, there is a low risk of flooding from all sources.
- 15.41 It is anticipated that the surface and foul water drainage systems will continue to discharge to the surrounding sewers, in common with the existing development on the site.
- 15.42 The Environment Agency has raised no objection to the proposal but there is a holding refusal from Essex County Council Flood & Water Management Planning & Environment team it is anticipated this objection will be withdrawn before the committee meeting.

## **Landscaping/ Ecology**

- 15.43 The Arboricultural Report indicates that the trees within the development site are self-seeded and consisted mainly of sycamore there are also several shrubs which consist of more ornamental species such as viburnum and Portugal laurel. The trees, and significant vegetation, are assessed as being of low quality and value (C category). The trees and shrubs make a limited contribution to public amenity and many of them contain structural defects. The proposals will require the loss of all trees and vegetation within the site. Some crown pruning works will be necessary to a tree just outside but overhanging the site. The proposals include the planting of a significant quantity of new trees and shrubs to be planted in key locations of the site to maximise both public and private amenity; at least 20 new trees are proposed and will be located in positions where they will be able to grow to maturity. Over the long term, new tree planting has the potential to significantly enhance the amenities of the property and contribute to the character and appearance of the local area.
- 15.44 The application includes a soft landscaping strip in front of blocks A, B and C on Magdalen Street. It also proposes areas of hard and soft landscaping between the buildings. Areas for cycle parking are included within the hard landscaped areas. The former tramlines located on the site are proposed to be retained and incorporated as part of the landscape scheme. The submitted landscaping plan includes full details of the proposed landscaping scheme and this is acceptable, in principle, to the Landscape Officer.
- 15.45 The landscaping to the frontage will be a significant improvement to Magdalen Street where there is currently very limited soft landscaping.
- 15.46 The majority of the site is covered by either buildings or hard surfaced with small trees and shrubs only on the rear and part side boundaries
- 15.47 The application documents include a Biodiversity Phase 1 Habitat Survey which assesses the vegetation and habitat types within the site. The survey report concluded there was negligible potential for presence on the site of protected species other than bats where there is medium potential for roosting in some buildings and birds nesting in buildings. The report recommends a bat roost survey for 1 building and for the roofs of buildings to be removed outside the main birds nesting season. These matters will be secured by condition. If bats are present a license will be required from Natural England.

## **Heritage and Archaeology**

- 15.48 When considering an application that affects a conservation area the Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Similarly when considering an application that affects the setting of a listed building the Planning Authority must have special regard to the desirability of preserving that setting (s.72(1) and 66(1) of the PI (Listed Buildings & Conservation Areas) Act 1990).
- 15.49 The rear boundary of the site abuts the boundary of the New Town Conservation Area. There are listed and locally listed Almshouses to the rear and along Military Road. There are also locally listed buildings in Magdalen Street.

- 15.50 There are no statutorily listed buildings on the site and the site is not within a Conservation Area. Whilst the retention of the façade of the bus depot is referred to in the representations it is not listed nor locally listed. Historic England has not objected to the demolition of this façade. The local list was prepared on behalf of the Colchester Historic Building Forum and adopted by the Council in 2011. The site includes a former tram shed which is on the local list. This building includes an attractive brick façade to Military Road and is retained and incorporated into the development.
- 15.51 Existing tram tracks in the tram shed have been incorporated into the courtyard amenity areas, and an existing plaque of the Borough's coat of arms on the street elevation of the bus depot has been retained, incorporated into the new design and will be located within the street elevation to Block A.
- 15.52 The setting of the Kendall Almshouses carries a legal duty to preserve and this aspect has been afforded special consideration in the design of the scheme. Given the existing buildings and their brutal qualities, their replacement by the proposals has the potential to enhance the current situation. Historic England consider "the proposed redevelopment of this major site would not cause harm to the significance of the setting of the grade II listed Kendall Almshouses or the adjacent Colchester New Town Conservation Area. The scale, massing and detailed design of the residential scheme would be an enhancement on the current street scene in this prominent location on Magdalen Street".
- 15.53 The setting of the Conservation Area will be enhanced by the demolition of the existing metal clad shed on the Military Road frontage, and the introduction of a pedestrian link. The new development, in part due to the change in ground level, will not be prominent in views from the Conservation Area.
- 15.54 The archaeological desk-based assessment has established the archaeological potential of the site and states that the site has been shown to have a high potential for encountering medieval and post-medieval activity, particularly along the street frontage. The assessment suggests a low potential for activity from other periods to be found on the site. The Council's archaeologist recommends further archaeological investigation should be undertaken and this will be secured by way of condition.

### **Land Contamination**

- 15.55 The site comprises a former bus/tram depot with an electrical sub-station and includes fuel storage and repair/servicing areas; these uses suggest there is potential for localised contamination to be present and this is confirmed in the submitted phase 1 desk study. This report recommends that a Phase II intrusive investigation is undertaken to confirm (or otherwise) the presence of contamination that could pose a risk to human health and the wider environment and to determine adequate remedial measures prior to the commencement of development. These conclusions are agreed by the Contaminated Land Officer and appropriate conditions are recommended.

## **Sustainable Design and Construction**

- 15.56 The submitted design and access statement sets out a number of measures that are aimed at achieving a BREEAM score of 'very good' these include (summarized)
- Water efficiency
  - Energy and reduction in CO2 emissions
  - Sustainable construction: opportunities to utilise the local workforce will be explored; the procurement of construction materials will also seek to utilise local materials and supplies
  - Waste and recycling: sustainable waste management processes will be put in place to maximise recycling and reduce litter
  - Biodiversity: features of biodiversity interest will be retained, protected and enhanced where possible; and
  - Site layout and building design: the proposal is for the regeneration of an underutilised site within an urban area, and will contribute to reducing local economic inactivity and improving the appearance of the area.

## **Other Matters**

- 15.57 As part of preliminary enquiry process the applicant held a community engagement exhibition at the Magdalen Street YMCA on 16th October between 3.00 - 7.00 to inform the local community about the proposals and seek their feedback. Key stakeholders including ward Councillors and a clerk to the Winnocks and Kendalls Almshouses charity were notified of the public exhibition and proposals. Full details of the public consultation exercise are set out in the submitted Statement of Community Involvement.

## **16.0 Conclusion**

- 16.1 The application proposes the development of a brown field site in a sustainable location on the edge of Colchester town centre. One of the core planning principles contained in the National Planning Policy Framework encourages '...the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value...' The application site has clearly been developed in the past and does not have a high environmental value. It is considered that the application site matches this requirement. Following on from this the site is also within a defined regeneration area within Colchester. The site is also within the Magdalen Street development brief area. When a brief is prepared it is not possible to predict all uses that may come forward and the documents main function is to set out parameters for development and identify constraints. In this instance the main constraints to development are the location of the site with the Air Quality Management Zone and the requirement for a reduced parking standard. Student accommodation has the advantage of being a use where it is possible to restrict car ownership and therefore limiting the number of parking spaces and the amount of traffic generated. This development will have neither an adverse impact on air quality nor the road network. In this respect the proposed use will have far less of an impact than many other potential uses. The demolition of the buildings, removal of the former bus depot use and the redevelopment of the site will be a significant benefit to the public realm and residential amenity.

- 16.2 The development satisfies many of the parameters identified in the brief namely public realm and street trees to Magdalen Street and a pedestrian link between Magdalen Street and Military Road. The brief identifies a contemporary architectural style as appropriate and the detailed design and layout of buildings is considered acceptable. The buildings facing Magdalen Street would be a mix of 3-4storeys, the height of the buildings is also mitigated by being set back from the street and the use of a recessed top floor with set-backs from the main façade meaning from the street the frontage will be perceived as predominantly 3 storey. The massing will be broken down by the variation in storey heights and gaps between buildings.
- 16.3 Careful consideration has been given to the amenity of adjacent residents and the layout and detailed design together with change in ground levels will ensure residents' amenity is protected. The development will not have an adverse impact on any heritage assets and retains the locally listed building and other features of local interest. Concerns relating to tranquility would be addressed by the constant on site management presence that the developer typically provides.
- 16.4 The application involves the redevelopment of a vacant site with a run-down appearance on a main road into the town centre. It is considered the proposed development satisfies the Council's aspirations for the regeneration area in general and Magdalen Street in particular. A conditional planning permission is recommended.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:
- Restrict occupancy to students **in tertiary, full-time education**
  - Agreement to employ an on-site manager /s and for there to be a 24/7 presence on site
  - Travel Plan, a Travel Plan Co-ordinator to be employed and Travel Plan to be regularly monitored by the council
  - Details of an Operational Management Plan (for management of parking on site, loading bay, student arrivals and departures)
  - Details of Maintenance Company responsible for all communal areas/refuse areas
  - An Ecological Clerk Of Works to be employed
  - Buses upgrade with a catalytic reduction system
  - Provision of a scheme of CCTV and link to CBC network
  - Upgrade to a bus stop to current Essex County Council specification, including real time
  - Passenger information
  - Pedestrian path from Magdalen Street to Military Road to be available for public use in perpetuity between dawn to dusk (for pedestrian and pedestrians wheeling bicycles) and agreement that this path will not be to used as a vehicular through route but only by emergency vehicles
  - Agreement that students will not to be granted residents parking permits

- Agreement that those students that are not eligible for an on-site parking space will be required to sign a lease that includes a clause preventing them from bringing a vehicle to Colchester whilst they are living at the approved development
- Provision of electrical heating
- Provision of 2 Electric Vehicle (EV) charging points,
- Provision of mechanical ventilation for units in blocks A and C
- Prevent use of flat roofs except for maintenance purposes

7.2 On completion of the legal agreement and subject to no objections being raised by Essex County Council Flood & Water Management Planning & Environment, the Head of Service be authorised to grant planning permission subject to the following conditions:

## **18.0 Conditions**

### **1 - Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **2 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing AFM1512 PL-10-SITE, AFM1512 PL-10-00 rev C, AFM1512 PL-10-01, AFM1512 PL-10-02, AFM1512 PL-10-03, AFM1512 PL-10, AFM1512 PL-10, AFM1512 PL-20-A-100, AFM1512 PL-20-B-101, AFM1512 PL-20-C-102, AFM1512 PL-20-C-103, AFM1512 PL-20 -D-104 AFM1512 PL-20-E-105, AFM1512 PL-30-01, AFM1512 PL-40-SS-01, AFM1512 PL-40-SS-02 AFM1512 PL-40-SS-03, AFM1512 PL-50-A-01, AFM1512 PL-50-B-02, AFM1512 PL-50-C-03 AFM1512 PL-50-D-04, AFM1512 PL-50-E-05, AFM1512 PL-50-ST-100, AFM1512 PL-50-ST-01 AFM1512 EX-10-01, AFM1512 EX-50-02, AFM1512 EX-50-03, AFM1512 EX-40-04 and LANDP001 rev)3.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

### **3 - Non-Standard Condition/Reason**

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the bricks indicated on the submitted drawings. No works shall take place until details of alternative bricks have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials.

Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

#### 4 - Non-Standard Condition/Reason

The development shall be constructed in accordance with the submitted cross section and elevation drawings that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site and finished floor levels.

Reason: To ensure the development does not have an adverse impact on the surrounding area or residential amenity.

#### 5 - Schedule of Types & Colours to be Submitted

No works shall take place until a schedule of all types and colours of external materials to be used has been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved schedule.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

#### 6- Non Standard Condition/Reason

Prior to the commencement of any works, additional drawings that show details of all architectural features including, but not limited to, windows, doors, window reveals, recessed rain water goods, parapet, to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these features which are essential elements of the design.

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#### 7 - Non-Residential BREEAM (Part 1 of 2)

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

#### 8 -Non-Residential BREEAM (Part 2 of 2)

Within 6 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

#### 9 - Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.



#### 10 - Cycle Parking (as approved plan)

Prior to the first OCCUPATION/USE of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

#### 11 - Non-Standard Condition/Reason

Prior to commencement of the development a Construction Management Plan, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### 12 - Non-Standard Condition/Reason

No occupation of the development shall take place until the following have been provided or completed:

- a) Two dropped kerb footway cross-overs off Magdalen Street each with a minimum 43 x 2.0 x 43 metre clear to ground visibility splay y distance to 0.5 metres from carriageway edge)
- b) A loading bay in Magdalen Street
- c) A minimum 2 metre wide footway along the site frontage in Magdalen Street and the maximum width available in Military Road
- d) There shall be no vehicular connection through the proposal site between Magdalen Street and Military Road.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### 13 - Non-Standard Condition/Reason

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the demolition and construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors
- hours of deliveries and hours of work
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- and a scheme for recycling/disposing of waste resulting from demolition and construction works
- measures to control noise.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

#### 14 - Demolition Programme TBA

No demolition whatsoever shall take place until such time as a programme has been submitted to and approved, in writing, by the Local Planning Authority stipulating the extent and timing of such operations. Any demolition shall thereafter take place solely in accordance with the approved details.

Reason: In the interests of the appearance of the locality and to avoid unnecessary disturbance to amenities.

#### 15 - Non-Standard Condition/Reason

Prior to the first occupation of the development hereby permitted, details of the Management Company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

#### 16 - Non-Standard Condition/Reason

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the sites plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter. Although some information was provided with the acoustic survey, further information to demonstrate compliance with the above condition will be required once the noise level of the proposed equipment and its specific location is known. Single background noise levels for the reference time periods should be provided.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

#### 17 - Non-Standard Condition/Reason

Prior to the commencement of development, a noise survey, including details of the accommodation structure, for proposed residential properties that are in the vicinity of the ROADS shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours (or representative periods), and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 good conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax).

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter. Note: Although some

acoustic information was provided with the application, it acknowledges that further work is necessary once the accommodation structure detail is known. This additional information shall provide single representative LAeq figures for both 16-hour daytime periods and 8-hour night-time periods and take into account that the accommodation is set back from the road, some of the blocks are shielded and the accommodation height. The proposed mitigation measures should be specific to each part of the site and take into account night-time maximum noise levels as well as LAeqs. Once the site is secured longer assessment periods may be possible.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

#### 18 - External Light Fixtures TBA

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution.

#### 19 - Non-Standard Condition/Reason

Prior to the commencement of development details of the insulation to the gym shall be submitted to and approved in writing by the Local Planning Authority. Such detail as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY building on the site and shall be maintained as agreed.

Reason: To prevent noise disturbing the accommodation above.

#### 20 - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

#### 21 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

#### 22 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

#### 23 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 20, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 21, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 22.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

## 24 - \*Validation Certificate

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 20.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

## 25 - Non-Standard Condition/Reason

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

## 26 - Non-Standard Condition/Reason

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential

pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

#### 27 - Non-Standard Condition/Reason

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority. Condition If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

#### 28 - Non-Standard Condition/Reason

Prior to the commencement of demolition a Level 3 analytical programme of recording shall be carried out on the site's buildings and a report produced and presented to the lpa. The sufficiency of the report shall thereafter be agreed by the lpa in writing prior to the commencement of demolition.

Reason: In order to ensure that the heritage resource is preserved by record in order to enable the proper interpretation of the Borough's historic environment.

#### 29 - Scheme of Archaeological Investigation

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

### 30 - Non-Standard Condition/Reason

The roofs to existing buildings identified in the Biodiversity Phase 1 Habitat Survey as Buildings A and C) shall only be removed outside the main bird nesting season. The Ecological Clerk Of Works shall be present to oversee the removal of these roofs.

Reason : To minimise the risk of disturbing birds nesting in these buildings.

### 31 - Non-Standard Condition/Reason

No works shall take place until a bat roost survey, carried out at an appropriate time of the year, to confirm or disprove the presence of bats on the application site, has been submitted to and approved, in writing, by the Local Planning Authority. If bats are present the survey shall be accompanied by a scheme of appropriate mitigation measures including precise details of the timing and method of protection. No development shall be undertaken thereafter, except in accordance with the approved scheme of mitigation.

Reason: In order to safeguard protected wildlife species and their habitats where it is possible that they could be present.

### 32 - Non-Standard Condition/Reason

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details are not acceptable in all respects and the new landscape detail shall include:

- RETAINED TRAM LINES
- WORKS TO EXISTING AND NEW RETAINING WALLS
- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;

- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

### 33 - Non-Standard Condition/Reason

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.  
Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

## 19.0 Informatives

### (1) **ZT0 – Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(4) The loading bay would require a Traffic Regulation Order to control its use.

- The Highway Authority has assumed the proposal site internal layout would not be laid out and constructed to adoptable standards and that the applicant would not intend to offer it to the Highway Authority for adoption.
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All highway related details should be agreed with the Highway Authority
- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.



(5) PLEASE NOTE that it is understood that bat roosts exist within the application site. Bats are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 which relate to the protection of bats and their roosts are fully complied with.

(6) PLEASE NOTE: It is likely that a protected species may be present at the site, which are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Eastbrook, Shaftesbury Road, Cambridge CB2 8DR, Tel. 0300 060 3787.

(7) PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

(8) PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as "someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience".

(9) PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

(10) PLEASE NOTE that the site is known to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime. Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land. The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an Appropriate Person. In this event the applicant will be lawfully responsible to remove the risk posed by the contamination. Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those acting on his behalf will be liable under Part IIA of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment. During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes. The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site. The Local Planning Authority will provide a Validation Certificate mentioned in Condition INSERT for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

(11) PLEASE NOTE that, with regard to air quality measurement, a competent person is defined as “someone who has demonstrable experience in complex air quality modelling, using current DEFRA approved software applications, with specific emphasis on urban and traffic-related situations”. Additionally, please note that air quality assessment should take full account of the Local Air Quality Management Process including, where relevant, the presence of any Air Quality Management Areas.

(12) PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

(13) PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

(14) PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable) paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.

(15) Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk). Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place.

#### (16) Informative on Archaeology

Whilst a pre-determination archaeological evaluation is not required for this proposal it is recommended that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required. The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

## **20.0 Positivity Statement**

- 20.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.