



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.2 & 7.3

Application: 180116 / 180117

Applicant: Mr Jay Munoz

Agent: Mr Jake Stentiford, Surface Planning

Proposal: Change of use of existing dwellinghouse to 13-bedroom house in multiple occupation and erection of replacement building at rear to provide 7-bedroom house in multiple occupation.

Location: 79 Magdalen Street, Colchester, CO1 2LA

Ward: New Town

Officer: Alistair Day

Recommendation: Approval subject to conditions

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 and objections has been received to the proposed development.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact that the proposed development would have on: the listed building; the character and appearance of the area; residential amenity; land use; the local highway network; and air quality. For the reasons set out in the report, the applications are considered acceptable and subsequently recommended for conditional approval.

3.0 Site Description and Context

- 3.1 The application site comprises the property known as 79 Magdalen Street, located on the south side of Magdalen Street. The building is currently used as a single dwelling house.
- 3.2 79 Magdalen Street is listed grade II for its special architectural and historic interest. The List description is as follows:

“C18 and later. 2 storeys and attics, the roofs mansard and tiled, double hipped gables east and west 2 dormers to the front, 3-window range of double hung sashes one blank window, cart entrance east end of front.”

- 3.3 The property fronts directly onto Magdalen Street and has a carriage arch that provides access to the rear of the property. The house has an extensive walled hard landscaped rear yard with a derelict outbuilding adjacent to the south boundary of the site.
- 3.4 The site is adjoined by a petrol filling station / car sales premise to the west and commercial units to the east. To the north are residential properties. The south boundary adjoins Kendall Road Folly, which links Military Road to Wimpole Road; beyond the folly are Victorian residential terrace properties that front Kendall Road.

4.0 Description of the Proposal

- 4.1 The application seek planning permission for the change of use of 79 Magdalen Street from a single dwelling house to 13-bedroom house in multiple occupation (HMO) and the demolition and erection of replacement building to the rear of 79 Magdalen Street to provide 7-bedroom house in multiple occupation.

5.0 Land Use Allocation

5.1 East Colchester Special Policy Area

6.0 Relevant Planning History

6.1 The site has been the subject of the following applications:

- 80/1059 - Internal alterations to convert coach house dwelling into seven flats
- 80/1732 - Change of use of building from stable and store to pine furniture workshop and store. Original application: Consent: 15.12.80 (10) Submission of renewal: Consent: 05.03.84 (9)
- 81/0583 - Rebuilding of existing front walling and provide new external brick skin to west elevation
- 81/1165 - Erection of three storey rear extension and alterations.
- 85/0258 - Change of use to public house on ground floor, restaurant on first floor and managers living accommodation on second floor.
- 95/1298 Change of use from shop and second floor flat to restaurant, take-away and store rooms
- 97/1744 - Change of use of former shop to single flat (6 flats in total)
- 96/1471 - Internal partitions and replacement of rear door with windows

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 be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains 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
- CE3 - Employment Zones
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour

- TA2 - Walking and Cycling
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP11 Flat Conversions
- DP12 Dwelling Standards
- 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
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA EC5 Area 3: Magdalen Street

7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

- The Essex Design Guide
- EPOA Vehicle Parking Standards
- Backland and Infill

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

Urban Design Officer

8.2 The Urban Design Officer objects to this application on the following grounds:

8.3 Car Parking - The proposal for no car parking is far from ideal even for the accessible urban context. To avoid an intensification of the site, the internal floor area of the existing buildings should not be significantly increased.

- 8.4 Private amenity space - At the very minimum, the property should be providing at least 100m² of usable garden as per is required for 4+ bedroom houses in DP16 although arguably more should be provided given the number of bedrooms being provided. Currently approximately 100m² potentially usable space is provided however considering the irregular context usability would rely on a convincing landscape scheme.
- 8.5 Outbuilding architecture - The architectural styling of the building is generally acceptable, though soldier courses (non-structural) and boxed eaves (clunky and contradict roof plain) contradict the design style.
- 8.6 Daylighting, outlook, privacy and security - For the new outbuilding I am concerned that of the 7 proposed bedrooms, 1 would have no windows, 3 would rely on roof lights and 2 would unacceptable have back-of-the-back-alley windows
Officer comment: Members should not that the above comments relate to an earlier version of the scheme.

Archaeological Officer

- 8.7 This proposed development concerns the alteration of a building that is of historic interest, and a Grade II Listed Building, which dates from the 18th century.
- 8.8 In this case, a historic building assessment should be carried out prior to the determination so that the affected building can be recorded. This will ensure that the significance of the potential heritage asset, affected by development, is fully understood, in accordance with paragraphs 128 and 129 of the NPPF and Adopted Guidance and 'Managing Archaeology in Development' (adopted 2015).
- 8.9 The objective should be to compile a record of the affected buildings at Historic England Level 2, as described in [Understanding Historic Buildings: A Guide to Good Recording Practice](#) (English Heritage 2006).

Environmental Protection (General)

- 8.10 No objection subject to conditions to cover construction method statement and refuse and recycling facilities.

Environmental Protection (Contamination)

- 8.11 Given the location of this site (in the vicinity of historic potentially contaminative uses and adjacent to an existing fuel filling station), it will be necessary for the applicant to provide the minimum of a 'Phase 1' Desk Study and initial assessment of potential contamination risks in support of the proposals.

Transportation Policy

- 8.12 This is a non-car multiple occupation development which is within a short walk or cycle ride from the town centre, with its amenities and rail station. The site is also on a bus route which has high frequency bus service. The development is well connected to the existing pedestrian and cycle network. Therefore this development is in a sustainable location.
- 8.13 Cycle parking provision should be in accordance with the adopted Essex Planning Officers Association Vehicle Parking Standards. This document details the type of provision and the optimum location for cycle parking. The proposed cycle parking provision meets the criteria.
- 8.14 Travel Packs will not be required by Essex County Council, but as this is a no-car development, then travel information should be provided by the developer to each of the residents.

Highway Authority

- 8.15 No objection, subject to conditions to cover location of bin stores, removal of existing dropped kerb, the permanent closure of carriageway to vehicles and the submission of a construction method statement.

Natural England

- 8.16 No comment

9.0 Parish Council Response

- 9.1 The site is not parished

10.0 Representations from Notified Parties

- 10.1 The application resulted in one representation for a nearby resident. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 Concern has been expressed about the following:
- Noise from future occupiers
 - The windows in the rear elevation of the new outbuilding would impact on the privacy of the gardens that back onto the folly.
 - There are already problems in Kendall Folly with drug deals, alcohol abuse and social issues and a development of this type would only add to those issues.
 - The lack of parking will only causes parking issues elsewhere which is something the council need to address in all developments

10.3 Cllr Higgins has expressed the following concerns in respect of the application:

- How will it be managed? New Town has several HMOs already and the management of many of them leave much to be desired. Some are managed well.
- I think there should be at least one parking space for services that might need to access the buildings, i.e. plumbers etc. Parking is already a problem on Magdalen Street. The service station next door is closing and the garage expanding its storage of cars on site.
- I see that the Planning Statement says they have got the required size of room etc. I am still concerned that we are creating an over density dwelling. I thought that CBC was trying to get away from building bedsits.

11.0 Parking Provision

11.1 See Paragraph 15.23 – 15.28

12.0 Open Space Provisions

12.1 See Paragraph 15.20 – 15.22

13.0 Air Quality

13.1 The front part of the site is located within an Air Quality Management Area.

14.0 Planning Obligations

14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that no planning obligations were required to mitigate the impact of this development.

15.0 Report

The Principle of the Development

15.1 79 Magdalen Street is currently used as a single dwelling house and is located on the south of Magdalen Street, which has a predominantly commercial and industrial character. Magdalen Street is identified in the local plan as forming part of the East Colchester Special Policy Area 3.

15.2 Policy SA EC5 of the Site Allocations DPD sets out the planning policy requirements for development around Magdalen Street, including the application site. It states that to the north of Magdalen Street, housing areas will be extended and consolidated, while 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.”*

- 15.3 Policy SA EC5 goes on to state that development shall accord with the more detailed criteria set out in the adopted Magdalen Street SPD. The application site falls outside of the area covered by the Magdalen Street Development Brief.
- 15.4 Whilst the property is currently used as a large single dwelling house, the site's context is such that it is not well suited for use as an extensive family home. As a dwelling house, the proposal to convert the building into a HMO will not result in a conflict with adopted policy SA EC5 – i.e. the proposal will not adversely affect the existing commercial uses along the south side of Magdalen Street.

Heritage Consideration

- 15.5 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. CS Policy ENV1 and DPD 14 seek to protect heritage assets. Government guidance on the historic environment is set out in Section 16 of the NPPF. Paragraph 195 deals with substantial harm to a designated heritage asset. Paragraph 196 deals with less than substantial harm. Harm in this category has to be weighed against the public benefits of the proposal.
- 15.6 The principle elevation of the property consists of red brickwork in Flemish bond, stone steps leading up to the entrance door with an ornate timber entrance door surround. To the right hand side of the entrance door is a large painted bay window. To the left hand side is a metal gated carriage arch providing access to the rear yard. Sitting within the front elevation of the double hipped mansard roof are two dormer windows. Two original red brick chimneys to the right hand end of the property project up beyond the roof line. Internally the original plan form of the building (including staircases) remains intact however, other than this, and a fire place in ground floor front room, there is little of obvious architectural or historic interest within the interior of the building. Minimal alterations are proposed to the exterior of the property; the drawings only show the removal of the external fire escape door to the rear of the building and the infilling of the doorway. Internally, the proposed conversions retains the broad configuration of the existing plan layout. The proposed scheme involves minimal alteration works to building and will bring about its full repair, which is welcomed particularly given its current poor condition. The comments made by the Archaeological Officer regarding the need for a survey prior to the determination of this application are noted. The NPPF however requires a proportional response and, having been inside the building, there is very little of obvious architectural and/or historic interest. In view of this, it is considered reasonable to condition the requested recording.
- 15.7 The rear courtyard is cluttered with building materials and other equipment. An outbuilding to the rear of the site is in a semi-derelict condition and the boundary walls are in a poor state of repair. It is proposed to replace the existing outbuilding with new building that has been designed to be subservient in terms of scale, mass and architectural treatment. It is proposed to renew / repair the boundary treatments as appropriately re-landscaped the rear courtyard to

provide private amenity space for the future residents. The proposed works will improve the setting of the listed building (and the area generally).

- 15.8 The proposed works are not considered to have a significant impact on the special interest of this building or its setting. Moreover, it is considered that any harm that is caused, which would be less than substantial, is outweighed by bringing about the building's full repair and providing it with a viable use. It is considered that the current application accords with Policies ENV 1 and DPD Policy DP 14 and the NPPF objectives that seek to conserve heritage assets.

Design and Layout Considerations

- 15.9 CS Policy UR2 seeks to promote and secure high quality design. DPD DP1 sets out design criteria that new development should meet. Policy DP 11 relates to proposals for the conversion and sub-division of existing premises into flats and other self-contained residential units. This policy states that proposals within the defined settlement boundary will be supported subject to meeting identified criteria.
- 15.10 The application relates to the conversion and alteration of an existing building which will be achieved by the internal alteration of the building; no significant changes are proposed to the exterior of the building. The proposed conversion of the existing building will not fundamentally change the character of the site or the surrounding area.
- 15.11 Part (i) of Policy DP11 states that proposals will not be supported where the proposal relates to the conversion of an existing property with a gross floor area of less than 110sqm. The floor area of 79 Magdalen is in excess of 110sqm and, as such, the proposed development does not conflict with the requirements of part (i) of policy DP11. With regard to the other parts of DP11, the proposal is considered to be sympathetic to the existing character of the building and the street scene in general (parts ii & iv). The proposal is also considered acceptable in terms parking, private amenity space, refuse storage (part iii) and potential impact on neighbours' (noise and/or overlooking) for the reasons discussed further in the report.
- 15.12 With regard to the size of the proposed units, local planning policies do not set out minimum room sizes standards. Private Sector Housing has, however, been consulted on this application and they have referred to The Essex HMO Amenity Standards which provides guidance on room sizes. Table 1 of this documents set out the minimum room sizes (from Private Sector Housing's perspective):

Room use	Number of occupants	HMO with shared facilities (kitchen/ dining/living)	HMO with shared kitchen facilities (no shared living room)	HMO without shared facilities (i.e. bedsits or studios)
Bedroom or Letting	1	6.51sqm	8.5sqm	11sqm
	2	10.22sqm	12sqm	15sqm
Shared Kitchen	Up to 5	7sqm	7sqm	
	6	8.5sqm	8.5sqm	
	7	10sqm	10sqm	
	8 -10	14sqm (or 2 rooms each 7sqm)	14sqm (or 2 rooms each 7sqm)	
Shared Living/Dining Room	up to 5	11sqm	*5sqm	
	6	12sqm	*6.5sqm	
	7	13sqm	*8sqm	
	8	14sqm	*10sqm (or 2 rooms each 5sqm)	
	9	15sqm	*10sqm (or 2 rooms each 5sqm)	
	10	16.5sqm	*10sqm (or 2 rooms each 5sqm)	

15.13A mixture of unit sizes is proposed (7.49sqm to 13.5sqm) together with two shared kitchen areas, a laundry room and TV room (lounge). Private Sector Housing also note that whilst some of the rooms are quite large and could support double occupancy the size of the proposed shared kitchens will limit the number of future occupants. The submitted drawings show each of the proposed units as accommodating a single person and the application has been considered on this basis; a condition has therefore been proposed to control the number of future residents.

15.14The new build element to the rear of 79 Magdalen Street replaces the existing storey two derelict outbuilding. The new outbuilding is set c1.6m from the rear boundary of the site (unlike the existing building which is set directly on the boundary) and its design has been amended through negotiation so that it appears more as an ancillary outbuilding; in terms of its design, scale and mass. Conditions are recommended in respect of materials and architectural detailing.

15.15It is considered that the proposed scheme would be of an appropriate design and, as such, there would be no conflict with paragraphs 124-127 of the NPPF or the aforementioned local plan policies. Equally there is no reason to suppose that the development would not promote social interaction as required by paragraph 91 of the NPPF. Moreover, Paragraph 38 of the NPPF seeks to ensure that local planning authorities work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. The current application would improve the appearance of the site which is currently occupied by a deteriorating building and provide additional housing.

Residential Amenity

15.16 DPD DP1 states that all development must avoid unacceptable impacts on amenity.

15.17 79 Magdalen Street is an existing building in residential use. The land to the east and west of the site is in commercial use and the conversion of the existing building into HMO will not generate private amenity issues for these uses. The conversion of the existing building to a HMO will also not have an adverse impact on the private amenity of the residential properties situated on the north side of Magdalen Street.

- 15.18 The concerns raised regarding potential overlooking (neighbour) and lack of natural daylight (Urban Design Officer) in respect of the new building are appreciated. With regard to the comments made by the Urban Design Officer, the layout / design of the building has been amended so that all the units are all served by a 'conventional' window (i.e. they are not reliant on a roof light for natural daylight / ventilation). Care has been taken to ensure that there is no direct overlooking of the adjacent residential properties. It is proposed that the dormer style window on the rear (south) elevation is obscure glazed and fixed shut; the window in the dormer 'cheek' will be openable and as this is set at 90 degrees to the rear gardens, it will not result in the direct overlooking of these gardens. The proposed window in the west elevation is also set at 90 degrees to the properties in Kendall Road and will not result in the significant overlooking of these gardens. Guidance set out in the Essex Design Guide states that where a new building is proposed, this should not encroach any closer than 15m from an existing rear boundary. The current application conflicts with this guidance; however it is pertinent that the proposed building replaces an existing building and, as such, will not result in a significant change in circumstance. The new building is set approximately 1.6m back from the site boundary (unlike the existing building which is set directly on the boundary) which will further reduce the visual impact / mass of the proposed building when compared to the existing situation.
- 15.19 The concerns raised in respect of noise generated by future occupiers are noted. There is no reason to suppose that this development would generate a different level of noise or anti excessive noise or anti-social behaviour, when compared, for example, to apartment buildings.
- 15.20 Construction works have the potential to impact on the amenity of local residents. A condition is therefore recommended that a construction method statement is submitted.
- 15.21 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is considered to be in broad conformity with DPD Policies DP1 and the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Public Open Space, Play Areas and Private Amenity Space

- 15.22 DPD Policy DP16 states that all new residential development shall be provided with private amenity space which has an inviting appearance and is appropriate to the surrounding context. The policy goes on to set down criterion (size of gardens) that should be provided: the garden sizes for houses range from 50sqm to 100sqm (2 to 4 + bedrooms) and for flats, a minimum of 25sqm per flat should be provided. In addition to private amenity space, DP16 requires all new residential development to provide new public areas of accessible strategic or local open space.

- 15.23 The current application provides in excess of 100sqm of private amenity space. Whilst the current application does not fall cleanly within the above housing categories, it is not unusual in historic urban areas such as this for dwellings to have 'reduced' area of private amenity space. In this instance, it is considered that, given the location of the site and the proposed end users (single persons), the size of the proposed amenity space is acceptable, provided it is designed to a high quality. With regard to public open space, it is not possible to provide public open space on site and the Council's Development Team has not requested any contribution to mitigate the impact of this development in the terms of off-site public open space provision.
- 15.24 Given that the application relates to the conversion of an existing building on a constrained site, it is considered that the proposed development is acceptable in terms of the policy requirement for the provision of private amenity space.

Highway and Transportation Considerations (including parking)

- 15.25 Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards. The adopted guidance states that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided and that for one bedroom units, one parking space is required. In addition to this, visitor parking at a ratio of 0.25 spaces per unit is required. In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling.
- 15.26 In the original planning submission six parking spaces were proposed in the rear courtyard. The Highway Authority raised an objection to this parking on the grounds that:
- it would lead to the significant intensification of use of a substandard vehicular access by reason of insufficient pedestrian visibility splays contrary to the interests of highway safety
 - The proposal would not provide an adequate turning facilities and, as such would give rise to the vehicles reversing into the highway to the detriment of highway safety; and
 - the proposed parking facilities would fail to provide sufficient space between parking spaces and structures to enable efficient and convenient ingress and egress manoeuvres
- 15.27 In the light of the above comments, the applicant has taken the decision to remove all vehicular parking from this scheme.
- 15.28 The Council's adopted parking standards set out minimum parking standards for dwellings, however the guidance notes that a reduced parking level maybe appropriate in sustainable locations. Paragraph 105 of the NPPF requires that if setting local parking standards, Councils should take account of the accessibility of the development, the type, mix and use of the development, the availability and opportunities for public transport, local car ownership levels and an overall need to reduce the use of high emission vehicles. There are therefore a number

of factors that need to be taken into account when determining what constitutes an appropriate level of parking.

- 15.29 The site is within a highly accessible location close to supermarkets and other shops and within walking distance of the town centre, the train station and bus stops. The site is therefore within an area where residents would not necessarily require access to a car to meet their day-to-day needs. There is also very limited unrestricted on-street parking available within the local area and future occupiers are therefore likely to have to travel a distance to park cars; which would in itself be a potential deterrent to car users. It is nevertheless accepted that the proposal could potentially add to the pressure on the existing on street parking. Given the sustainable location of the site and the fact that the Highway Authority has not raised an objection to this application, it is considered, on balance, that a refusal could not be sustained solely on the grounds of there being no on-site parking provided. The suggestion that one space is provided for contractors has been raised with Highway Authority. The Highway Authority has verbally advised that they did not consider it practical to provide a parking space for contractor within the carriage arch as this will restrict access for the residents in the rear property, require vehicles to reverse into Magdalen Street and would be impossible to police. If a space was provided to the rear of the site, the issues previously raised by the Highway Authority would be applicable and it would result in the loss of private amenity space.
- 15.30 Provision is made for cycle parking under the carriage arch and within a new storage building. The cycle parking will need to be both secure and covered and to ensure that this is the case, a condition is recommended.
- 15.31 In view of the above, it is considered that the proposed parking provision would not cause a fundamental conflict with Policy DP19 or the adopted parking standards of the NPPF.

Contamination

- 15.32 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 15.33 The site is located in the vicinity of historic potentially contaminative uses and adjacent to an existing fuel filling station. Given this, the Council's Contamination Land Officer has advised that the applicant should provide as a minimum a 'Phase 1' Desk Study and initial assessment of potential contamination risks in support of the proposals. This is normal practice and, if the site was in commercial use, it is considered that a Phase 1 Desk Study would be an essential requirement. In this instance, 79 Magdalen Street is already in residential use (a sensitive use) and this will not change as a part of the current proposals. In view of this, it is considered reasonable to condition a contamination survey and any associated remediation and verification. This will ensure that any potential on site contamination is adequately dealt with

Air Quality

- 15.34 The Core Strategy contains policies for the delivery of development, infrastructure, facilities and services in Colchester to 2021. The Council does not have any specific policies on air quality within the Core Strategy; Policy TA4 however states that "The demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character." The adopted Colchester Borough Council - Air Quality guidance note is a material consideration.
- 15.35 On the basis that the proposed development does not provide on-site car parking it is considered that the completed scheme will have minimal impact on the Air Quality Management Area. There is the potential for the proposed development to have an impact on air quality during the construction phase, taking into account local weather conditions and the presence of sensitive receptors. However the potential effect of this can be controlled by a construction method statement condition. Environmental Protection has not raised an objection to this scheme in terms of any potential adverse impact that it may have on the Air Quality Management Area.
- 15.36 It is considered that the proposed development is consistent with the requirements of the Council's adopted development plan policies, supplementary planning guidance and the NPPF as regards to air quality impacts

16.0 Conclusion

- 16.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the relevant policies contained in the Council's adopted development plan. The NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF identifies three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure the long-term future of this listed building. There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. Overall it is considered the positive environmental effects and sustainability of the proposal would weigh in favour of this scheme.

- 16.2 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts and, as such, Members are recommended to resolve to grant planning permission and listed building consent subject to the conditions set out below.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission 180116 subject to the following conditions:

1. ZAA - 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. ZAM - Development to Accord With Approved Plans

The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below.

- Drawing No. 1491-P-01 - P4 - Magdalen Street - Block Plan as Proposed
- Drawing No. 1491-P-02 - P2 - Magdalen Street - Basement and Ground Floor Plans as Proposed
- Drawing No. 1491-P-03 - P1 - Magdalen Street - First and Second Floor Plans as Proposed
- Drawing No. 1491-P-04 - P1 - Magdalen Street - Elevations as Proposed
- Drawing No. 1491-P-06 - P5 - Magdalen Street - Replacement Outbuilding Elevations and Cycle Store
- Drawing No. 1491-P-05 - P4 - Magdalen Street - Replacement Outbuilding Floor Plans

No variation from the approved plans should be made without the prior approval of the Local Planning Authority. Amendments may require the submission of a further application.

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

3. Non Standard Condition – Detailed Scale Drawings

Works shall not start on the new outbuilding (Ref Drawing No. 1491-P-06 - P5) until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

4 Non Standard Condition – Construction Method Statement

No works, including works of demolition and/or enabling works shall take place 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 construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) hours of deliveries
- iii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the hours of work
- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities
- (vii) measures to control the emission of dust and dirt during construction
- (viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- ix) a method statement for piling works (if applicable)
- x) HGV Routing Plan and
- (xi) the means or method of protecting the travelling public within the highway whilst working from height above and adjacent to the highway

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

5. Non Standard Condition – Materials

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these (including brick bond and mortar type) have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development and to safeguard the character and appearance of the heritage assets and their setting.

6 Non Standard Condition – Additional drawings

Notwithstanding the details submitted, no works shall start on the new outbuilding (Drawing No. 1491-P-06 - P5) until additional drawings that show details of any proposed new windows, doors, eaves, verges, cills, arches, plinths, porches, balconies, brickwork detailing and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are 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: In order to ensure that the architectural detailing of the development is appropriate and to safeguard the character and appearance of the heritage assets and their setting.

7. ZGX - 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

8 ZGY - 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.

9 ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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.

10 ZG0 - 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 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, 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 9.

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.

11 – Non Standard Condition – Communal recycling

Prior to first occupation of the proposed development, a communal recycling, bin, refuse collection point shall be provided within 15m of the highway boundary and retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection and to minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

12 ZCG - Communal Storage Areas

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 in order to avoid any potential adverse impact on the quality of the surrounding environment and to avoid bin blight there is a potential adverse impact on the quality of the surrounding environment.

13 - Non Standard Condition – Storage of bicycles

Prior to the occupation of the proposed development for the use hereby permitted, details of the provision for the storage of bicycles sufficient for all occupants of each bedroom and visitors, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

14 – Non Standard Condition - Vehicular Access

Prior to the first occupation of any of the proposed development for the use hereby permitted, the existing vehicular access or any part of an access (dropped kerb) rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway footway / kerbing to the specifications of the Highway Authority.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

15 – Non Standard Condition – Highway

Prior to the first occupation of any of the proposed development, the applicant/developer shall provide a physical means to prevent the now redundant vehicular access to the site being bought back into use, entirely clear of the limits of the highway.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

16 – Non Standard Condition – Residential Occupancy

The main building (79 Magdalen Street) shall be occupied by no more 13 residents (13 x one bedroom units) and the new building hereby approved to the rear of 79 Magdalen Street shall be occupied by no more than 7 residents (7 x one bedroom units).

Reason For the avoidance of doubt as to the scope of the scheme and to ensure that any increase in resident numbers can be adequately accommodated having due regard to amenity standards.

17 – Non Standard Condition – Landscape works

No works shall take place (except for underground enabling works) 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 shall include:

- Means of enclosure ((including height brick bond, brick type and coping detail)
- Hard surfacing materials
- Minor artefacts (e.g. furniture, refuse storage or other storage units, lighting)
- Planting Plans
- Written Specification (including cultivation and other operations associated with plant and grass establishment.
- Schedule of plants noting species, plant sizes and proposed numbers / densities
- Implementation Timetables

The approved landscaping scheme shall be implemented prior to the first occupation of the development for the use hereby permitted

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

18. ZDA - *General Removal of Residential

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: The site is already heavily constrained and developed and any further development on the site would need to be considered at such a time as it were to be proposed.

19. ZDF - *Removal of PD - Obscure Glazed & Non-Opening*

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor windows in south elevation of the new outbuilding (Drawing No. 1491-P-06 - P5) shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

20. ZDI - *Removal of PD for Windows Above Ground Floor Level*

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level in any elevation walls or roof face of the new building HEREBY PERMITTED unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

18.0 Informatives

18.1 The following informatives are also recommended:

(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) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

(3) ZTB - Informative on Any Application With a Site Notice

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.

(4) – Highways Informative

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

Listed Building Consent - 180117

1. ZAB - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZLN - Building Recording

Prior to the commencement of any works of demolition, an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the building concerned. This record shall be carried out by an archaeologist or building recorder, or an organisation with acknowledged experience in the recording of standing buildings who shall have previously been agreed, in writing, by the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has previously been agreed, in writing, with the Local Planning Authority.

Reason: To secure the proper recording of locally listed and other buildings.

3. ZLP - Hitherto unknown

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority

Reason: To secure the proper recording of the listed building.

4. ZLQ - *Schedule of Repairs / Works*

Prior to the commencement of any internal works to 79 Magdalen Street, a full schedule and specification of the repair works shall be submitted to and approved in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

5 ZLR - Making Good

Within one month of the works being carried out to 79 Magdalen Street, all adjoining surfaces which have been disturbed by the works shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the historic character of the listed building.

6 - Non Standard Condition - Materials

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these (including brick bond and mortar type) have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development and to safeguard the special interest of the building.