

# Planning Committee Meeting

**Council Chamber, Town Hall, High Street,  
Colchester, CO1 1PJ**

**Thursday, 18 October 2018 at 18:00**

**The Planning Committee** deals with planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

## Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. At Planning Committee meetings, other than in exceptional circumstances, only one person is permitted to speak in support of an application and one person in opposition to an application. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

<https://colchester.cmis.uk.com/colchester/HaveYourSay/HYSPlanning.aspx>.

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## Access

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## Facilities

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**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 18 October 2018 at 18:00**

**The Planning Committee Members are:**

Councillor Pauline Hazell	Chairman
Councillor Brian Jarvis	Deputy Chairman
Councillor Lyn Barton	
Councillor Vic Flores	
Councillor Theresa Higgins	
Councillor Cyril Liddy	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

**The Planning Committee Substitute Members are:**

All members of the Council who are not members of this committee and who have undertaken the required planning skills workshop training:-

**Councillors:**

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Andrew Ellis	Adam Fox	Dave Harris	Darius Laws
Mike Lilley	Sue Lissimore	Patricia Moore	Beverley Oxford
Gerard Oxford	Lee Scordis	Lesley Scott-Boutell	Martyn Warnes
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

**AGENDA**  
**THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING**  
**(Part A - open to the public)**

**Please note that Agenda items 1 to 6 are normally dealt with briefly.**

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

**1 Welcome and Announcements**

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

## **2 Have Your Say! (Planning)**

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

## **3 Substitutions**

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

## **4 Urgent Items**

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

## **5 Declarations of Interest**

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

## **6 Minutes of 23 August 2018**

7 - 20

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 23 August 2018.

## **7 Planning Applications**

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

### **7.1 181281 Former Bus Depot, Magdalen Street, Colchester, CO1 2LD**

21 - 66

Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across three blocks of up to four storeys to provide 250 bedspaces (50 units comprising, 46 cluster flats and four studio flats), communal facilities (to include bin stores, cycle parking, site management suite, quiet study area, common rooms, laundrette and communal external amenity areas), two car parking spaces, landscaping and a new public pathway through the site.

### **7.2 180116 79 Magdalen Street, Colchester, CO1 2LA**

67 - 90

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

### **7.3 180117 79 Magdalen Street, Colchester, CO1 2LA**

Listed building application for change of use of existing dwelling house to 13-bedroom house in multiple occupation, and erection of replacement building at rear to provide 7-bedroom house in multiple occupation

**See report at Agenda Item No 7.2**

**Planning Committee Information Pages v2**

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**8 Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**Part B  
(not open to the public including the press)**



# Planning Committee

## Thursday, 23 August 2018

**Attendees:** Councillor Lyn Barton, Councillor Vic Flores, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Chris Pearson

**Substitutes:** Councillor Nick Cope (for Councillor Theresa Higgins), Councillor Gerard Oxford (for Councillor Philip Oxford)

**Also Present:**

### 617 Site Visits

Councillors Barton, Cope, Hazell, Jarvis, Liddy, Loveland and Maclean attended the site visits.

### 618 Minutes of 5 July 2018

*RESOLVED* that the minutes of the meeting held on 5 July 2018 be confirmed as a correct record.

### 619 172935 Stane Park Site, Essex Yeomanry Way, Stanway, Colchester

The Committee considered a planning application for the erection of a retail unit with an external yard and retail space (A1), a retail terrace comprising six units with mezzanine cover (A1); two supermarkets (A1) and restaurant units (A1/A3/A5), with associated parking and landscaping at Stane Park Site, Essex Yeomanry Way, Stanway, Colchester. The application had been referred to the Committee because the proposal constituted a departure from the Local Plan, being retail development on a site allocated for Employment uses. The Committee had before it a report and amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Principal Planning Officer explained that, in addition to the further information contained in the amendment sheet, additional comments from the Council's Transport Policy Team had also been received reinforcing matters in relation to the provision of the Toucan crossing over the bypass and improving pedestrian connection as well as the need for secure covered cycle parking, infrastructure for electric charging of vehicles and an over-arching travel plan, all of which were the subject of recommended conditions in the report and

the amendment sheet.

Matt Cloke addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals were well designed and of high quality which be of important benefit to the local community and Colchester as a whole. Traffic was a known issue in the area and, as such the proposals included investment totalling £2.5 million for highway, cycleway and pedestrian improvements. The Highways Authority and Highways England had agreed that the proposals would fully accommodate existing congestion as well as future traffic from the site, whilst the scheme also included the provision of a second pedestrian crossing on the Western Bypass adjacent to London Road. Commitments to the scheme had been made by B & Q, Marks and Spencer and Aldi and other 'new to Colchester' retailers had expressed firm interest. In total the development would deliver 400 full and part-time jobs. Traditional employment jobs had been considered to be unviable on the site by the Council's consultants whilst the cost of highway improvements was a major constraint. As such the proposals were the only realistic way to deliver jobs and investment at the site. In addition, there would be ecological and landscape enhancements which would otherwise not come forward. He considered Aldi and M & S would add choice in local food retailing whilst other goods sold would be bulky and conditioned as such. The impact of the proposals on the town centre would be negligible. He welcomed the clarification in the amendment sheet explaining that the proposed disabled parking provision was compliant with the relevant standards. He emphasised the investment to the site, improvements in local infrastructure and committed retailers and commended the proposals to the Committee members.

Councillor Dundas attended and, with the consent of the Chairman, addressed the Committee. He was generally in support of the proposals with some reservations reflecting comments made by local residents. He considered it appropriate for the application to be recommended for approval, in the light of two recent appeal decisions. He was of the view that there there was no realistic potential for alternative employment proposals for the site and that the current scheme would bring welcome retail jobs to the local area. His main concern was in relation to the poor traffic infrastructure in the area which had been needed since the 1990s and, as such, welcomed the improvements which would be brought forward as a result of the proposals. He was also concerned about access for pedestrians between the Stane Park, Sainsbury's and Tollgate sites and didn't wish to see people driving between the sites. He considered the car parking provision may be inadequate and that this may lead to congestion extending back to the A12 carriageways. He sought clarification on the type of bus stop to be provided to the development and whether it would include a shelter and layby. He welcomed the condition to provide for the completion of road improvements prior to occupation of the site and he considered the delivery of jobs with the development of the site to be a very positive consideration. On balance he hoped the Committee members would approve the application.



Councillor Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She welcomed the pragmatic approach taken in consideration of the application, including the requirement for the decision to be referred to the Secretary of State to ascertain whether it was deemed necessary for the application to be called in. She welcomed the proposed conditions providing for no occupation of the site prior to the delivery of the improvements to the A12 junction 26 roundabout and the local road network improvements and pedestrian crossing points. She was concerned about proposed parking provision for vehicles and cycles and also highlighted the car parking space sizes proposed. She questioned whether the criteria for exceptional circumstances had been met for the small parking sizes. She was aware of existing issues at busy times whereby customers at one site were using parking provision at neighbouring sites. She was of the view that this practice was likely to lead to shoppers parking in residential streets which may prove particularly troublesome at Christmas and Bank Holiday times. She asked about the provision of a site management and security plan, including CCTV and monitoring, on site security, litter control and cleaning. She was particularly concerned about measures to control the site and the parking areas outside business hours, in line with measures already in place at Tollgate Village. She also requested the imposition of a condition to provide for litter picking beyond the site for a period of five years, again in line with measures at Tollgate Village, given the restaurant use intended and the likelihood of takeaway litter.

In response, the Principal Planning Officer explained that the relevant parking standard was based on a maximum provision and the proposed provision had been based on TRICS data contained in the transport assessment for the application which had established that peak usage would bring 780 vehicle arrivals and 733 vehicle departures with 637 peak car park accumulations. The assessment, which had been verified by the Highway Authority and Highways England, had therefore shown that the total parking provision of 739 spaces would create a contingency of more than 100 spaces. She acknowledged that the car parking spaces proposed were of the minimum size allowed in the standards, justified by the applicant on the basis of the over capacity of space provision. She confirmed that the proposed conditions did not include one to provide for site safety and security but one could be added should the Committee members consider it to be appropriate. She confirmed that the decision notice for Stane Park Phase 1 included a condition for a scheme to be agreed for the disposal and collection of litter and, as such, it would be possible to mirror this condition in relation to the current application. She further confirmed that the proposal from the Highway Authority was for an on-road bus stop, without a layby.

In discussion, members of the Committee welcomed the proposals in terms of the investment in the area and the commitments made to the development by B & Q, Marks and Spencer and Aldi whilst also referring to the need for improved connectivity across the whole local road network and the need for pedestrian access between each of the neighbouring sites. The provision for cyclists was supported, along with the intention to provide two lane access to and from the site. Nevertheless strong concern was

expressed in relation to the proposed on-road bus stop and the impact on congestion this was likely to make if access to the from the site was impeded. Concern was also expressed in relation to the need for two lane vehicular provision between this site and the Sainsbury's site and the A12 junction and also in relation to the proposed car park space size, given the considerable use of the site by customers. Reference was made to the impact of the Stane Park, Tollgate and Sainsbury's sites together and the inability of the Committee to seek retrospective contributions from each of the developers to mitigate the cumulative traffic impact in the area. Clarification was also sought in relation to the conclusion contained in the report that the proposal would have negligible impact on Colchester town centre as well as the reasons why the smaller size car park spaces had been considered acceptable.

The Principal Planning Officer confirmed that contributions from developers to secure highway improvements were restricted to measures to mitigate an individual site only. She explained the measures to improve pedestrian access and to deliver connectivity between Stane Park Phase 1 with Phase 2. She reiterated that the on-road bus stop had been considered adequate by the Highway Authority whilst a bus gate had been provided within the neighbouring Wyvern Farm development which could be utilised from this site. She confirmed that the applicant was sensitive to the connectivity issues and was willing to accommodate a second pedestrian crossing on London Road, however this would be instead of the £25k contribution requested by the Highway Authority for nearby roundabout improvements. She referred to the relinquishing of an area of land as part of the Sainsbury's development for the provision of a cycleway, should the Highway Authority require it in the future. In terms of retail impact, the Planning Inspector for the Tollgate Village appeal had indicated that he did not consider the accepted 14% impact from that development on the town centre to be significant and, as such, an accepted 9% impact from this development could therefore not be considered significant. She explained that any revision to the scheme to provide for increased car parking spaces would lead to the reduction in the total number of spaces which was likely to mean that the scheme would be non-compliant with the standard for parking provision. She also confirmed that the smaller car park space size had been provided for at the Stane Park 1 site which had been approved on appeal.

An argument was put forward that, if it was considered that the provision for car parking was inappropriate, a revised scheme could be considered comprising a reduced number of retail units. There was also concern about the potential for the on-road bus stop to block access to the site and whether a further condition needed to be applied to provide for a bus stop with a lay by.

The Development Manager explained that an increase in the size of the parking spaces would reduce the total number of spaces by approximately 20% which would have a significant impact on the way the car park would perform. He confirmed that the smaller size space being proposed was the national norm, not sub-standard and of the proportions found in the majority of car parks across the UK. He explained that the larger

space options had been used for residential developments to mitigate problems associated with vehicle parking on roads rather than in designated spaces, whilst the smaller space size was appropriate for car parks at retail and commercial developments.

The Principal Planning Officer further confirmed that proposed conditions provided for the road improvements to the A12 junction and the local road network were all required to be completed prior to occupation of the units. She also explained it would be possible to amend the condition providing for highway improvements to include the provision of a bus stop lay-by, under a Section 278 Agreement with the Highway Authority but she cautioned whether there would be sufficient space to include a lay-by and questioned the potential impact on landscaping proposals. She also explained that the proposals included the provision of two lane entry to and exit from the site.

The Development Manager explained that the Highway Authority had considered the scheme on the basis of the current proposal and had no objection to the bus stop provision. He considered therefore that the Committee would lack evidence to require a lay-by solution, particularly as the contingent implications were not known. He also clarified that the location of a second pedestrian crossing, instead of £25k roundabout improvements, would be dictated on highway grounds and would form part of the Section 278 Highway Agreement and so was for the Highway Authority to determine.

*RESOLVED* (SIX voted FOR and FOUR ABSTAINED) that –

- (i) The application be approved subject to the conditions and Section 106 Agreement contained in the report and the amendment sheet;
- (ii) The Assistant Director Policy and Corporate be authorised to consult the Secretary of State in order to ascertain whether they wished to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990;
- (iii) The Assistant Director Policy and Corporate be authorised to determine the application either upon receipt of confirmation from the Secretary of State that they do not wish to 'call-in' the application or following the expiry of 21 days from receipt of the consultation;
- (iv) The Assistant Director Policy and Corporate be authorised to negotiate the obligations and clauses of the Section 106 and approve planning permission subject to the conditions and revisions set out in the report and the amendment sheet, together with additional conditions to provide for site safety and security and the disposal and collection of litter, mirroring the condition attached to the Stane Park 1 development, as well as the revision of condition 14 to add a further pedestrian crossing on London Road and the consequent deletion of the £25k contribution for roundabout improvements and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within six months from the date of the Committee meeting to provide for the following:

- Mitigation contribution (£150,000 proposed by the Applicant) towards funding the Council's economic development initiatives to improve the commercial attractiveness of Colchester;
- Employment initiatives to ensure that occupier's seek employees on opening through local agencies (e.g. Job Centre);
- Provision of an extended footpath/cycleway link between the existing footpath/cycleway which currently terminates south of Essex Yeomanry Way and north of the Sainsbury's building;
- A £25,000 index-linked contribution towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance);
- A Travel Plan monitoring fee.

(v) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application.

## **620 180873 Land north of Dyers Road, Stanway, Colchester**

The Committee considered a planning application for the erection of 57 residential properties with associated parking, servicing, amenity space, landscaping and utilities at land north of Dyers Road, Stanway, Colchester. The application had been referred to the Committee because the application was a major, objections had been received and a legal agreement was required. The Committee had before it a report and amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Sue Jackson, Planning Project Officer, presented the report and assisted the Committee in its deliberations. The Planning Project Officer explained that the consultation deadline for the revised layout plan did not expire until the day after the date of the Committee meeting and, should any further representations be received, raising new substantial issues, the application would be reported back to the Committee.

Jeremy Hagon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered that Stanway already had enough development and he was concerned about the consequent problems associated with traffic flow. He questioned the proposed development on a narrow lane with no path ways and considered the delivery of infrastructure was required in order to alleviate traffic problems and improve safety on Winstree and Blackberry Roads. He also referred to the lack of progress in relation to the delivery of a new school within the Lakelands development although it had been promised for some time. He considered that the application should be required to provide additional infrastructure such as broadband at speeds of up to 20mb together with reliable mobile phone signal

coverage as well as a local defibrillator. He opposed the approval of the scheme on the basis that it was premature and needed to be delayed until improvements were implemented at Tollgate and after the GP surgeries and school provision had been improved.

Kevin Coleman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He wished to respond to comments made by residents to the application. Some residents had indicated their opposition to further development and associated traffic problems but the site was allocated in the Local Plan for residential development and was part of a jigsaw of sites which, together, would provide the Stanway Southern Slopes access road. The Parish Council had commented on the site being over-developed with a lack of open space. He confirmed that the proposal included 15% open space, although the relevant policy standard was for 10%, whilst the proposed density was comparable to the neighbouring sites to the south and the north which already had the benefit of permission. Proposed parking and garden sizes both met the relevant standard required and in many instances exceeded these requirements. Concerns had been raised in relation to ecology, however, he pointed out that Essex Wildlife Trust had raised no objections. The applicant was agreeable to the provision of community services and affordable housing as required in the Section 106 Agreement. He also pointed out that there were no technical objections from consultees. Mersea Homes had a reputation for building developments to high standards and they had worked with the council's officers to create a well-designed proposal with a good mix of development. He hoped the Committee members would agree with the officer recommendation for approval.

Councillor Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She referred to the ecology and diversity aspects of the application which was an issue for local people. Muntjac deer had been regularly seen on the site but there was no reference to any sightings in the report. She referred to the conditions attached to the permission for the area to the north of the site, which include bat roosting opportunities, bird boxes and hedgehog holes in fences and asked for these to be included as conditions for this site. Dormouse nesting boxes would also be installed on the neighbouring site and she was surprised that assessments had indicated that dormice were absent from this site. She welcomed the planting of blackthorn and the encouragement of invertebrates but sought clarification as to what provision would be made for reptiles. She welcomed the creation of bee banks and she questioned whether the measures proposed for badgers would be sufficient. She also sought clarification on the wildlife enhancement buffer. She asked for provisions to secure discussions between the applicant and residents regarding boundary treatment where there are significant changes in ground levels, as had been the case at the neighbouring site, developed by Taylor Wimpey and she requested that this be extended to the residents at The Burrows. She was disappointed that no objection had been raised to the proposal from the Highway Authority on the grounds of highway safety or capacity as she was concerned regarding the cumulative effect of multiple site development in the area. She was also

disappointed that there would be no contribution towards improvements to the junction at Warren Lane and Maldon Road. She welcomed provision for a nature trail and community facilities which she hoped would contribute to better amenity for children. She also asked about trigger points.

Councillor Dundas attended and, with the consent of the Chairman, addressed the Committee. He referred to the volume of objections from residents on various subjects. He referred to the status of the current Local Plan and the amount of residential development which had taken place during the lifetime of the Plan. He commented on the amount of required infrastructure which had failed to be delivered such as improvements to the A12 junction and the surrounding road network. He referred to the poor performance of the Warren Lane junction with Maldon Road where regular accidents now occurred and was concerned that no improvements were being delivered. He referred to the cumulative effect of developments. He was of the view that the other aspects of the Local Plan, such as infrastructure and community facilities, needed to be delivered not just the residential development. He welcomed the application in terms of the open space provision and density proposed. He was, however, concerned about screening provisions and sought clarification that adequate protection would be made for existing trees. He concluded by asking the Committee members to consider whether the application had been submitted prematurely, given the infrastructure to make it sustainable had yet to be delivered.

In response the Planning Project Officer confirmed that the site was allocated for residential development, forming part of the Stanway Growth Area and that the Highway Authority had not objected to the access proposals or the Warren Lane junction with Maldon Road. She understood concerns regarding the cumulative effect of developments but explained that an applicant was only required to mitigate its own impact. She further confirmed that Dyers Road would be closed to through traffic once the forthcoming Stanway Fruit Farm development was implemented. The applicant had agreed to all the Section 106 requirements, including open space, affordable housing, education and community facilities. She explained that the Lakelands development included a much greater number of housing units and had included the provision of a new school, delivery of which would be triggered following the completion of a required number of units of accommodation. Ecology management and habitat requirements were covered in a proposed condition which included bat and bird boxes, whilst the landscape condition would secure species appropriate to encourage wildlife. Dormice had not been identified on the site despite thorough site assessments being undertaken. She also explained that Essex Wildlife Trust had raised no objection to the proposals subject to the provision of a 10 metre ecological buffer. The provision of broadband within development proposals was not a current requirement.

In discussion, members of the Committee generally welcomed the proposals, including the ecological provisions and the proposals for the affordable housing but sought clarification in relation to the monitoring of the practice of developers in relation to trigger

points, the adequacy of proposed garden sizes, the financial contribution of £180,000 for community facilities, whether electric charging points would be provided, what type of affordable housing would be provided and whether the proposed ecological and boundary treatment conditions were consistent with those attached to the neighbouring development. Concern was expressed generally in relation to highway safety, particularly in relation to children travelling to school as well as the car parking layout and road widths on the development.

An observation was made in relation to renewable energy sources, electric vehicle charging points and ecologically sustainable proposals and the ability of the Council to require developers to make adequate provision for the way people currently lived in the 21st century. Reference was also made to the ecological implications of the delivery of the Fiveways Fruit Farm development and the need for adequate protection to be provided for the local wildlife as the last remaining habitat in the area.

The Planning Project Officer explained that the eleven affordable housing units were predominantly two and three bed units as well as two four bed units and one one bed unit, affordable in the true sense of their tenure and managed by a Housing Association. She was of the view that developers were keen to complete developments and that the staging of contributions avoided any deliberate non-completion. The minimum size of gardens was provided for in the Essex Design Guide and the proposals for the development had exceeded these standards. Contributions for community facilities was for an extension to the Evangelical Church which was well attended and over-subscribed, whilst education contributions had been required by Essex County Council and would be given to existing schools, rather than towards the site allocated for a primary school at Lakelands. She confirmed that the proposed conditions included a requirement for the provision of electric vehicle charging points. She explained that parking layouts had been provided for so that the open space would not be dominated by parked cars and, as such, spaces had been relocated to provide an organic edge to the boundary treatment. In many instances plots had 2/3 parking spaces as well as a garage and a condition requiring garages not to be converted for incidental purposes. She also confirmed that the access roads were designed to be suitable as a bus route and internal roads include turning heads suitable for refuse freighters.

**RESOLVED** (NINE voted FOR and ONE ABSTAINED) that, subject to no material objections being received as a result of the further neighbour notification on the revised plans which expired on 24 August 2018 –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions and revisions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Open Space, Sport and Recreation: A total off site open space contribution of £312,699.36, a Public Open Space and Tree maintenance sum, if these features are

adopted by Colchester Borough Council, of £24,638.78, details of the Management Company for the open space to be submitted and agreed prior to the commencement of any development;

- Primary Education: £12,734.00 per place 16.2 places , Secondary Education: £19,345.00 per place 10.80 places;
- A continuation of the spine road between the adjacent Taylor Wimpey site (east of Warren Lane) and Dyers Road to be completed in accordance with details including an implementation timetable, to be agreed with the Highway Authority;
- Affordable Housing: 11 units tenure to be in accordance with adopted policy and all of the affordable housing to meet a minimum of building regulations Part M4 Category 2;
- Community Facilities: a contribution required towards the refurbishment and extension of the Evangelical Church £180,000 for the building work at Stanway Evangelical Church and £2000 for installation of a hearing loop and relevant equipment at Stanway Youth Centre;
- A financial contribution towards Recreational Disturbance Avoidance and Mitigate Strategy (RAMS).

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application.

**621 180805 Ground Floor, River House, Quay Street, Wivenhoe, Colchester**

The Committee considered a planning application and a Listed Building Consent application for change of use from office space to three studio flats and alterations to existing bedsits at Ground Floor, River House, Quay Street, Wivenhoe, Colchester. The applications had been referred to the Committee because they had been called in by Councillor Liddy. The Committee had before it a report and amendment sheet in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the planning application and Listed Building Consent application be approved subject to the conditions set out in the report and the amendment sheet.

**622 181313 Lealands, Chapel Lane, West Bergholt, Colchester**

**Councillor G. Oxford here left the meeting**

The Committee considered a planning application for a proposed single storey side extension at Lealands, Chapel Lane, West Bergholt, Colchester. The application had been referred to the Committee because it had been called in by Councillor Barber. The Committee had before it a report in which all information was set out. The Committee



made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Lucy Mondon, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Darren Bishop addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was a resident of Homecroft, adjacent to the application site. He did not object to an extension in principle but was concerned about the design and the impact on the residential amenity of his property. He was of the view that no consideration had been taken from his perspective as no contact had been made for access or to view from his property's perspective. He asked whether the assessment had been made by use of a desk top study. However, he pointed that the two properties were at different levels. He referred to the open plan internal style of his property. He considered there would be significant impact due to the proposed extension being closer to the site boundary and he was concerned about loss of light inside his property and in the garden and potential over shadowing. He acknowledged that parking issues had been resolved but he asked for clarification regarding any need for a retaining wall. He asked about the preservation of the 45 degree angle and whether the requirement had been met adequately. He also asked how the tests had been carried out.

In response the Principal Planning Officer confirmed that two parking spaces would be provided and, as such, the relevant parking standards had been met. The site tapered to one side but the extension was between 1.6 metres and 1.8 metres from the fence line. The distance from Homecroft, the neighbouring property, was a further 3.5 metres from the fence line. The higher level of Homecroft was an important fact to consider in relation to concerns regarding loss of daylight or sunlight as well as the fact that the proposed extension would be no higher than the existing property. As such there would be sufficient sunlight around the garden and sufficient daylight to reach the windows. She also explained that it was possible for planning applications to be assessed in terms of distances and relationship between properties by means of a desk top exercise and confirmed the 45 degree angle would go above the extension when measured from Homecroft.

In discussion, members of the Committee commented on the movement of the gable end of the property forward, with no change to the size or height and no impact on light or amenity for the neighbouring property. As such, no material planning considerations were evident

**RESOLVED** (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.

**623      181548 Former Waiting Room Cafe, Bus Station, Queen Street, Colchester**

The Committee considered an Advertisement Consent to display bespoke heras fence panels around the former Waiting Room Cafe, Bus Station, Queen Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and amendment sheet in which all information was set out.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Cecilia Dickinson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was concerned about the proposed height and extent of the adverts and that they would obscure the view of the Firstsite Museum. She did not support the erection of an eight foot barrier in this location on the grounds that it would detract from the attraction of the Cultural Quarter. She suggested the artistic groups could have been invited to assist with the visual representation of the barriers to better effect. She considered the proposal needed to be undertaken in a cultural way or not at all. She also objected to the use of plastic for the adverts and she questioned why it could not be made of recyclable material.

In response the Planning Project Officer explained that, as application for advertisement consent, the proposal had to be dealt with in a different way to a planning application. The aspects to be considered were in relation to amenity and public safety. It was acknowledged that the site would be developed, however currently a building had been demolished and the site was unsightly. It had therefore been considered that the adverts would create more visual interest than the existing fencing as well as screening the demolition.

Members of the Committee generally sympathised with the comments made by the speaker, particularly in relation to the use of plastic however, the height of the proposed adverts was not considered to be excessive. It was acknowledged that the demolition site was an eyesore and, as such, the proposed screening was welcomed. Clarification was sought in relation to the quality and durability of the plastic material proposed, whether public access to the site would be adequately secured, whether the wording and content of the adverts would vary and over what period of time they would be on display. Views were also expressed in relation to the application being submitted on behalf of the Council and whether a request could be considered for the material to be recyclable and for local artistic groups to be invited to assist with the aesthetic design of the adverts.

The Planning Project Officer confirmed that the existing heras fencing would be maintained and it was this that provided security of the site. One of the proposed conditions provided for the regular monitoring, maintenance, repair and replacement of the adverts. She also confirmed that the content and colour of the adverts were as

submitted and the application was for a temporary period until 31 July 2020. She suggested the Committee may wish to consider the addition of an informative in relation to the material to be used for the adverts.

The Development Manager reiterated that the considerations for signage were amenity and public safety only and sustainability was not a valid consideration in this instance. He also reminded the Committee members that they had a statutory duty to consider the application before them on its merits. He advised that it was not within the Committee's remit to try to redesign the scheme.

*RESOLVED* (SIX voted FOR, TWO voted AGAINST and ONE ABSTAINED) that –

- (i) The application be approved subject to the conditions set out in the report and the amendment sheet and an additional informative to advise that a more sustainable material should be considered instead of the plastic proposed.
- (ii) The applicants be advised that the Committee would, in future, prefer a more artistic approach to advert design that engages with the local community.

#### **624 Section 106 Agreement in respect of land at 6/7 Hawkins Road, Colchester**

The Committee considered a report by the Assistant Director Policy and Corporate giving details of the proposed variation of a Section 106 agreement attached to an approved planning application for a residential and commercial development at Hawkins Road, Colchester.

Bradly Heffer, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Senior Planning Officer explained that, following the acquisition of the site by a new owner, the viability of the scheme had been raised with officers and had indicated it would not be possible to deliver the financial element of the Section 106 Agreement relating to the education contribution or the affordable housing provision. The remaining element, related to a footway and cycleway across the frontage between the site and the river, had not been disputed. The supporting information had been independently assessed and the conclusions were agreed.

In discussion, members of the Committee sought clarification on the terms of reference for the viability study and whether this was determined by the Council or the developer and whether any agreement to a variation would set a precedent.

In response the Senior Planning Officer explained that each viability assessment followed a standard approach. The assessment would be produced by the developer after which it would be independently assessed. He explained, however, that the site incorporated previously contaminated land which was in a flood zone and, as such,

contained abnormal features which would impact the development costs. He also explained that outline and reserved matters permission had been sought separately and the opportunity had been taken by the Council, due to the site's prominent location, to drive up the development in terms of standard, value and appearance through use of architecture and materials which had been a factor in the overall viability of the scheme. It was also explained that, although this was due to change in the future, currently there was a confidentiality element to the independent assessment of the viability study.

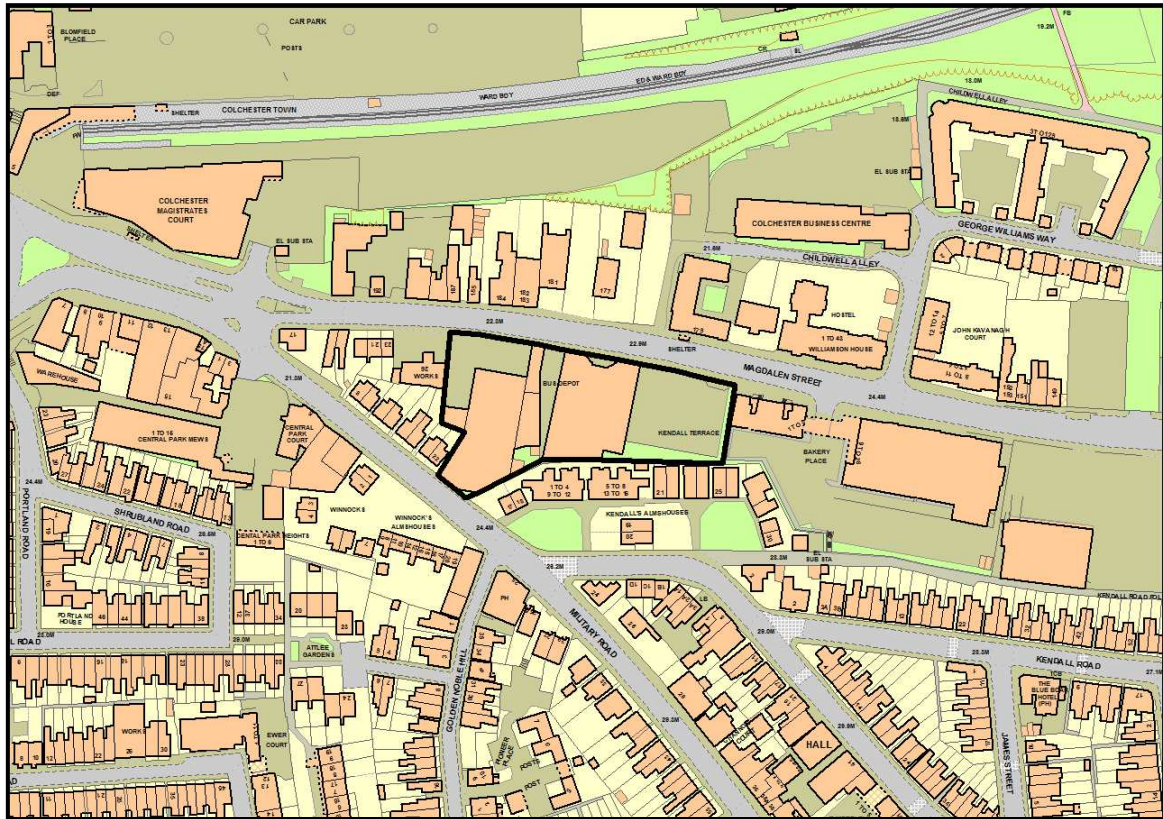
Some members of the Committee expressed disappointment that the education contributions and the affordable housing provision would be lost but welcomed retention of the provision and ongoing maintenance of the footway and cycleway. Other members of the Committee sought clarification regarding the progression of the scheme should it not be completed within the three year time frame suggested in the report.

The Senior Planning Officer explained that the developer would be required to start the development within a period of three years and once commencement had taken place, completion would be required within a second period of three years. If the development was not completed in the timeframe the viability would then be reassessed and if no development had commenced at all the planning permission would expire.

*RESOLVED* (FIVE voted FOR, TWO voted AGAINST and TWO ABSTAINED) that the Section 106 agreement be amended by the insertion of the following wording:

'After commencement of the approved development, it is completed within a three year period or

If the development is not completed within this period the viability is reassessed and, if found to be financially viable, appropriate contributions secured for affordable housing and primary education provision to reflect the viability identified.'



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**Item No:** 7.1  
**Application:** 181281  
**Applicant:** Mr Kevin Warr, Victoria Hall Management (UK) Ltd  
**Agent:** Mr Max Plotnek, Maddox & Associates Ltd  
**Proposal:** Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across three blocks of up to four storeys to provide 250 bedspaces (50 units comprising, 46 cluster flats and four studio flats), communal facilities (to include bin stores, cycle parking, site management suite, quiet study area, common rooms, laundrette and communal external amenity areas), two car parking spaces, landscaping and a new public pathway through the site.  
**Location:** Former Bus Depot, Magdalen Street, Colchester, CO1 2LD  
**Ward:** New Town & Christ Church  
**Officer:** Sue Jackson  
**Recommendation:** Approval subject to a legal 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 where a legal agreement is required. A single comment has been received.

## **2.0 Synopsis**

- 2.1 The key issues explored below are the planning history in particular the scheme approved in 2016, relevant policies including the draft Local Plan and the Magdalen Street Development Brief; 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.
- 2.2 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.
- 2.3 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The site is irregular in shape broadly rectangular with a small projection on the south boundary towards Military Road. It has an area of 0.4322 hectares and has twin frontages of 104 metres to Magdalen Street and 13 metres to Military Road. The site 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.
- 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 mainly along the rear boundary. 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. The Military Road frontage contains the brick façade of a locally listed building (Tram Shed) and a corrugated metal clad building set at an angle to the road.
- 3.3 The former bus depot building extends from the front to the rear of the site and has a road frontage of approx. 27 metres, it 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 pitched metal clad roofs. The site also contains various corrugated metal sheds generally open to the road with

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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 brick building 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 to 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. 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. The grade II listed Kendalls Almshouses to the rear of the site are approx. 2.5 - 3.5 metres above the ground level of 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 erected 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 modern 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 with offices in a converted dwelling; with residential properties adjacent. Magdalen Street is generally an area of a mixed uses; 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 in close proximity to the site's southern boundary with their main amenity area to the front of the buildings. Kendall's Almshouses 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 and 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 the 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 the 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 nationwide.
- 4.2 The application seeks planning permission for the demolition of the existing buildings and redevelopment of the site to provide student accommodation in three separate buildings, each building is between three and four storeys in height. Green sedum roofs are proposed to the three storey elements. A total of 250 bedspaces will be provided in 50 units comprising 4 studio flats and 46 cluster flats.
- 4.3 The development also includes communal facilities; (cycle parking, site management suite, quiet study area, common rooms, launderette, bin stores and communal external amenity areas), two car parking spaces, landscaping and a new public pathway through the site.
- 4.4 The three buildings described as Block A, B and C are set back from the Magdalen Street carriageway by approximately 6-8 metres and includes a widened footway of 2 metres. A loading bay is proposed outside Block B, visitor cycle parking is also indicated to the front of this block.
- 4.5 Block A is 3 storeys in height where it abutts the adjacent Robertson's vehicle hire premises and then rises to 4 storeys. It is "L" shaped with the east elevation facing the new pedestrian access between the two roads. A central landscaped area is proposed adjacent to the almshouse boundary. Block B is also in part 3 storey and part 4 storey in height. The ground floor of Block B includes the management suite and other communal facilities. The common room and communal study room face onto Magdalen Street with the main entrance reception and management office being off the proposed pedestrian route providing natural surveillance of the site. The blocks are all roughly "L" shaped with the leg of the "L" extending into the rear part of the site enclosing a courtyard amenity space. Each block includes covered cycle parking building with a green sedum roof.



- 4.6 The brick locally listed single storey façade to Military Road is retained and the building extended for use as a substation. The remaining Military Road frontage is opened up to provide the new footpath link through the site. Two parking spaces are proposed to the rear of the substation.
- 4.7 The pedestrian link through the site creates a new street frontage with the new buildings facing onto it. There is access from this path to the various Blocks and to private courtyard amenity spaces between buildings and to areas of cycle parking. Whilst the pedestrian path is accessible by the public the remainder of the site is secured by railings and gates.
- 4.8 The application proposes landscaping, including tree planting, along the Magdalen Street frontage and landscaped courtyards between the buildings.
- 4.9 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
  - 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 majority of the planning history relates to the former use of the site as a bus depot.
- 6.2 160103 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. Planning permission was granted on 20 December 2017 and is subject to a legal agreement.

- 6.3 Application 180710 use of part of the site as a public car park - temporary planning permission granted for 1 year (30 June 2019).

## **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  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
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 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  
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 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 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 Documents (SPD):

Magdalen Street Development Brief  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Sustainable Drainage Systems Design Guide  
Managing Archaeology in Development.  
Planning Out Crime  
Air Quality Management Guidance Note, Areas & Order

- 7.6 Submission (Publication) Draft Colchester Borough Local Plan 2017-2033  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

The application site is shown as a new residential allocation in the emerging plan and is identified in policy EC3.

Relevant policies include:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Strategy for North Essex  
SP3: Meeting Housing Needs  
SP5: Infrastructure and Connectivity  
SP6 - Place Shaping Principles  
SG1: Colchester's Spatial Strategy  
SG2: Housing Delivery  
SG7: Infrastructure Delivery and Impact Mitigation  
ENV5: Pollution and Contaminated Land  
CC1: Climate Change  
PP1: Generic Infrastructure and Mitigation Requirements  
EC3: East Colchester  
EC4: Transport in East Colchester  
DM1: Health and Wellbeing  
DM9: Development Density  
DM10: Housing Diversity  
DM12: Housing Standards  
DM15: Design and Amenity

DM16: Historic Environment  
DM20: Promoting Sustainable Transport and Changing Travel Behaviour  
DM21: Sustainable Access to Development  
DM22: Parking  
DM23: Flood Risk and Water Management  
DM24: Sustainable Urban Drainage Systems  
DM25: Renewable Energy, Water, Waste and Recycling

- 7.7 Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:
1. The stage of preparation of the emerging plan;
  2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
  3. The degree of consistency of relevant policies to the policies in the Framework.
- 7.8 The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF. However it should be noted no objections have been received to the proposed allocation.

## **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.

### **Essex County Council Lead Local Flood Authority (SUDS)**

- 8.2 The consultant acting on behalf of ECC has commented “Having reviewed the Flood Risk Assessment & Drainage Statement and the associated documents which accompanied the planning application, acting on behalf of ECC we do not object to the granting of planning permission subject to conditions being attached to the consent”.

### **Environment Agency**

#### Land Contamination Comments

- 8.3 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. The site should be cleared and below ground infrastructure removed to allow site wide testing of soils / groundwater to be undertaken and assist in locating potential sources of the hydrocarbon contamination detected in groundwater.

The Surface Water Management The Drainage Statement by Bailey Johnson Hayes dated April 2018, Section 3b suggests that infiltration drainage may be possible in parts of the site. Given the presence of hydrocarbon contamination in soils and groundwater beneath the site, the use of infiltration drainage would not be recommended because of the potential for contamination to be mobilised.

### **Anglian Water**

#### **Assets**

- 8.4 There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that informative text be included within you Notice should permission be granted.

#### **WASTEWATER SERVICES**

The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows

#### **Used Water Network**

Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. We request a condition requiring the drainage strategy issue(s) to be agreed.

#### **Surface Water Disposal**

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. No evidence has been provided to show that the surface water hierarchy has been followed as stipulated in Building Regulations Part H. This encompasses the trial pit logs from the infiltration tests and the investigations in to discharging to a watercourse. If these methods are deemed to be unfeasible for the site, we require confirmation of the intended manhole connection point and discharge rate proposed before a connection to the public surface water sewer is permitted. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency. We request that the agreed strategy is reflected in the planning approval.

### **Planning Policy:**

- 8.5 Commented on the 2016 application and concluded “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”.

**Urban Design Officer:**

- 8.6 I would generally support proposals though at the detailed level suggest the need for some minor revisions, further clarity with regard to sensitive/contentious elements (which hopefully reassure) and key conditions. Informed by pre-application dialogue, the applicant has worked hard with a view to ensuring the scheme meets adopted and reasonably enforceable design standards whilst maximising site densities, considering national guidance and some challenging site constraints. With regard to the proposed density it should be noted this is an urban and highly sustainable location in close proximity to Town Station and the town centre which are both just 200m away. With regard to the (New London/Cambridge Vernacular) architectural style, I understand this might not be to everyone's taste and possibly appear quite basic. However, I would generally support this particular design here considering the mixed context, having studied the design in detail and appreciated the seemingly high quality attention to form, materials and details which are key to the concept, and from my knowledge of good and bad schemes elsewhere adopting this style. Nevertheless, it does appear appropriate to request slightly more architectural interest in places. Other recommendations primarily have regard to neighbour privacy (a complicated issue here), resident outlook, daylighting and massing.  
*Officer comment: amended plans addressing these issues have been received.*

**Highway Authority:**

- 8.7 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

**Historic England:**

- 8.8 Historic England Advise as follows:

Historic England were consulted in 2017 at pre-application stage on similar proposals for redevelopment of this site to create three blocks of accommodation, all five storeys in height to provide 52 cluster flats and 272 study bedrooms and community facilities.

Our advice regarding those proposals was 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 were satisfied that the scale and massing of the blocks, with a maximum height of four storeys including a penthouse storey set-back, would not be over dominant in this prominent location. They would not cause harm to the setting of the grade II listed Kendall Almshouses. Whilst the new development could not be set at back of pavement as the existing bus depot buildings were, due to environmental health reasons, the resultant siting of the blocks provides the opportunity to soften their immediate setting.

There is a statutory requirement to pay special attention to the desirability of preserving a building and its setting and preserving or enhancing the character or appearance of a conservation area, Planning (Listed Buildings and Conservation Areas) Act 1990, ss 16 and 72. At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development. This requires economic, social and environmental gains to be sought jointly and simultaneously (paragraphs 7, 8 & 14). The conservation of the historic environment is one of the 12 core principles identified (paragraph 17). The historic environment section sets out the desirability of preserving and enhancing heritage assets and of new development making a positive contribution to local character and distinctiveness (paragraph 131). Great weight should be given to the conservation of heritage assets and any harm requires clear and convincing justification (paragraph 132). Where an application would result in harm this should be weighed against the public benefits of the proposal (paragraph 134).

- 8.9 In our view the formally submitted scheme for the redevelopment of this major site adjacent to the Colchester New Town Conservation Area would, as stated in relation to the previous proposals, be an enhancement on the current streetscene in this prominent location on Magdalen Street. Historic England are satisfied that the scale, massing and detailed design of the overall proposals remain contextually appropriate and 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.

**Recommendation**

Historic England have no objections to the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 128 and 137.

In determining the application you should bear in mind section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

**Environmental Protection**

- 8.10 Should planning permission be granted Environmental Protection wish to make the following comments:- no objection subject to conditions

Environmental Protection employ a specialist consultant to advise on Air Quality Matters the consultant has commented "The following air quality mitigation measures have been proposed within the AQIA and should be required by condition: Subject to provision of the mitigation measures, the application is acceptable on the grounds of air quality.

- Provision of a Travel Plan to encourage sustainable modes of transport to and from the site;
- Provision of tree planting along Magdalen Street and throughout the development to absorb pollution and increase deposition rates;

- Provision of secure cycle parking spaces; and
- Provision of one Electric Vehicle (EV) charging point, serving 50% of the total car parking spaces.

*Officer comment; these matters will be secured either by condition or in the legal Agreement.*

### **Contaminated Land Officer**

- 8.11 The submitted report has previously been reviewed (pre-application), together with some subsequent additional risk assessment and reporting, not submitted as a part of the supporting information for this application. Based on all of the information made available to Environmental Protection to date, it would appear that additional intrusive investigations, risk assessments, remediation and verification will be required in order to make this site suitable for the proposed use.

Since the potential risks identified to date include risks to controlled waters, and as the Environment Agency have made previous comments pre-application, I would recommend that the Environment Agency are also consulted on this application.

The applicant's attention is drawn to the recommendations in the submitted Red Rock Desk Study report for an asbestos survey to be undertaken prior to demolition and redevelopment, and for an unexploded ordnance risk assessment to be carried out prior to any intrusive investigations.

Consequently, should this application be approved, Environmental Protection would recommend inclusion of conditions

### **CBC Archaeologist**

- 8.12 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 planning conditions relating to archaeological investigation and building recording to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.



A condition relating to below-ground archaeological investigation and a second condition relating to historic building recording are recommended in accordance with the National Planning Policy Framework (Paragraph 141).

### **Landscape Officer**

- 8.13 Has commented that to accord with the Council's Landscape strategy for development sites the landscape element of the proposal needs to be cross-Checked against the Council's standard generic requirements under landscape Guidance Note LIS/A.

Detailed points relate to tree pit surfaces, the requirement for details of vehicular tree guards, comment that the proposed use of 'local natural stone' to create dry stone wall features is not recommended and brick walls are suggested as an alternative. It is noted the actual individual distances between tree planting positions and building façades needs to be clearly plotted, careful consideration needs to be given to the number and type of trees proposed alongside the retaining wall bounding Kendal Terrace given how close the Terrace is to the wall.

## **9.0 Parish Council Response**

- 9.1 N/A

## **10.0 Representations from Notified Parties**

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. 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 No representations have been received from neighbouring properties, but the following comment has been submitted "I have information that when the tram shed was given to the council it had a covenant on it. It can only be used for transport. Is this being taken in consideration when planning the site".

*Officer comment: Members are aware covenants are not a planning matter however Colchester Amphora Trading Ltd - Head of Estates has been informed of the resident's comment.*

## **11.0 Parking Provision**

- 11.1 There is no category within the adopted Car Parking standards that deals with off-campus student accommodation. This application proposes 2 spaces one of which is a disability parking space.
- 11.2 Parking issues are discussed in the main report.

## **12.0 Open Space Provisions**

- 12.1 There is no policy requirement for the provision of open space for student accommodation. The main report describes the amenity spaces proposed around the buildings.

## **13.0 Air Quality**

- 13.1 The site is within the Air Quality Management Area.

- 13.2 The specialist consultant who advised Environmental Protection has considered the reports for both this and the 2017 application and has commented "The AQIA follows the methodology that was pre-agreed with the consultant. The following air quality mitigation measures have been proposed within the AQIA and should be required by condition:

- Provision of a Travel Plan to encourage sustainable modes of transport to and from the site;
- Provision of tree planting along Magdalen Street and throughout the development to absorb pollution and increase deposition rates;
- Provision of secure cycle parking spaces; and,
- Provision of one Electric Vehicle (EV) charging point, serving 50% of the total car parking spaces.

Subject to provision of the mitigation measures, the application is acceptable on the grounds of air quality. These matters will be secured in the legal agreement or by condition.

## **14.0 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/requirements 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 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) but a financial contribution will fund the provision of 2 cameras one on each road frontage linking to the Council's CCTV network;
- Provision of a pedestrian link through the site to connect Military Road to Magdalen Street with public access in perpetuity.

## **15.0 Report**

15.1 The main issues in this case are:

### **The Principle of Development**

15.2 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 cycleway 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.

#### **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.

#### **Development Brief**

15,3 The development brief is a supplementary planning document and is a material consideration in the determination of the application. The brief 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. 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 brief requires 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. The brief also promotes an active frontage to Magdalen Street and it is acknowledged the proposed development 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 Application 160103 for the redevelopment of the application site to provide student accommodation; 230 bedspaces (61 cluster flats and 16 studio flats) was granted planning permission on 20 December 2017. This extant planning permission is a material planning consideration. The applicant has explained the background to the revised application is "the development of a more appropriate design response to the site constraints to produce an economically viable proposal, this is achieved by a more efficient block core and cluster flat layout which has enabled an increase in bed numbers and the amount of external amenity space with less site coverage".

Student accommodation is acceptable in principle.

## Design and Layout

- 15.9 The principle difference between the approved scheme and the current proposal is the reduction in the number of blocks from five to three. The approved development involves the erection of five buildings, three buildings of 3 and 4 storeys fronted Magdalen Street with storey heights reducing to the rear. Two buildings of one to three storeys were also proposed; one along the rear boundary with the almshouses and the second behind Military Road, the revised scheme does not include these two buildings. A simple layout is now proposed comprising three “L” shaped blocks fronting Magdalen Street each with a wing extending towards the rear of the site. Each block has an internal courtyard and cycle parking. The gaps between the blocks have been widened to afford views into the site from Magdalen Street. A new pedestrian route is created through the site from Magdalen Street to Military Road.
- 15.10 The revised scheme proposes buildings of a similar design to the approved scheme but incorporating several refinements. The elevations and massing have been developed to respond to the heights of the surrounding buildings with the facades arranged as a series of overlapping planes to create a staggered building line. The penthouse storeys are recessed from the street elevations and will be clad in light-weight cedar boards which will weather to a soft, silver-grey colour.
- 15.11 Different brick treatments are proposed for the elevations which, when combined with the irregular rhythm of the facades, is designed to give the impression of a series of individual buildings. Punched openings in the brick facades with deep reveals provide articulation to the elevations and will create shadow and depth to reinforce the interplay of different planes. Recessed brickwork to the ground floor and perforated bricks and decorative panels will provide texture and articulation to the Magdalen Street elevations.
- 15.12 The design includes fully openable windows to all habitable rooms to allow ventilation, the openable portion of the window is a full height, inward opening, tilt & turn window which requires guarding when opened using the ‘turn’ function. Fixed internal timber louvres are proposed to the Block A south and west courtyard elevations to mitigate potential overlooking issues. The windows have a full brick reveal which sets the window back from the front of the façade and reduces the outward visibility. Windows will have translucent glass to allow light in but prevent views out. Further refinements include the inclusion of graded film on the windows to upper floors to the south elevation of blocks B and C and communal rooms to Block A and the increased height of a parapet at third floor level on Block A .

- 15.13 The supporting information confirms the intention to use high-quality materials such as brick and timber- Long format, light red multi bricks (typically 288x88x48mm), Cream multi, stock bricks (typically 215x102.5x65mm), Grey, stock bricks laid in Flemish bond (typically 215x102.5x65mm), Vertical cedar boarding (varied width), Sedum roofs are proposed for the lower level roof areas to the rear of the scheme.
- 15.14 Members will note the scheme is supported by the Urban Design Officer subject to agreement on architectural details and materials these matters will be secured by condition.

### **Scale, Height and Massing**

- 15.15 The 3-4 storey elements of the buildings where they front onto Magdalen Street are of a similar scale and height to those approved. The proposed heights of the buildings has to be considered in the context of the surroundings and the difference in ground levels. Recent developments include the Emmaus and the YMCA buildings both are 3 storeys high and the former includes 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.
- 15.16 Whilst the buildings will be visible from Military Road, the taller elements will be set behind the road frontage.
- 15.17 The proposals are described in the following terms;  
The proposed development has been rationalised into three distinct blocks which form an animated frontage to Magdalen Street. A set-back building line has been applied to the buildings to create defensible space for the ground floor flats and to provide space for street trees which will improve air quality, absorb traffic noise and enhance the public realm along Magdalen Street. The reception, management suite and communal student facilities are located centrally within Block B to create a street level hub.
- 15.18 The proposed subdivision of the Magdalen Street frontage relates to the rhythm of the smaller plots on the north side of Magdalen Street and increases the visual permeability through the site. The building height along Magdalen Street is staggered to reflect the varied building heights of the area. The larger, four storey elements step down to three storeys towards the southern section of the site.

15.19 The building form has been broken down into a series of staggered blocks of varying heights which generates a vertical rhythm along the street and avoids creating a strong horizontal axis. This vertical emphasis is proportionate to the existing buildings along Magdalen Street. The facade has been developed to appear as a series of projecting and receding planes which are treated in different materials to create a layered street scene with architectural interest.

15.20 The scale and height of the buildings is considered acceptable.

### **Impact on the Surrounding Area**

15.21 The site comprises vacant buildings and unsightly gaps which present 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.

15.22 The use will generate limited vehicular movements this is also a positive impact particularly when compared to the previous bus depot use.

15.23 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 will benefit local residents providing easier and safer access to town centre, the Town station and other bus services. Local businesses are also likely to benefit from an increase in trade.

### **Impacts on Neighbouring Properties**

15.24 The demolition of the existing buildings, will have a positive impact on neighbouring properties, in particular the removal of metal sheds which built into the boundary wall.

15.25 Whilst the site has not been operational for many years when in use it would have been a noisy neighbour with buses leaving early in the morning and arriving late at night. The scheme has the potential to impact on neighbouring properties in two main ways by overlooking/loss of privacy and the operation of the use resulting in noise/disturbance.

### **Overlooking/Privacy**

15.26 The scheme has paid regard to the amenities of neighbouring properties; in particular the listed and locally Almshouses to the side and rear of the site. The cross section drawings show the height and location of the Almshouses in relation to the proposed buildings. These drawings will form part of the presentation to committee and will demonstrate the difference in ground levels between the two sites. 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.

- 15.27 The buildings are “L” shaped with two elevations facing the rear of the site (the rear of the element fronting Magdalen Street and the rear of the wing which extends into the site). Block A is approx. 16 metres from the rear boundary of the Military Road almshouses, and the wing extends to within approx 17 metres of Military Road. Block B is approx 19 metres from the rear boundary of the Kendall Road almshouses, and the wing extends to within approx. 7 metres of this boundary while Block C is approx 13 metres from the rear boundary of the Kendall Road almshouses, and the wing extends to within approx. 7 metres of this boundary.
- 15.28 The Essex Design Guide considers rear privacy and recommends a minimum of 25 metres between the backs of houses but also states; “where new development backs on to the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses are approximately parallel to the existing, the rear of new houses may not encroach any closer than 15 metres to an existing rear boundary”.
- 15.29 The difference in height between the site and the almshouses is approx 3 metres, (the almshouses are at the higher level), when the boundary fence at the top of the retaining wall is taken into account the ground and first floor of the buildings are screened from the almshouses. It is reasonable therefore to only assess the impact of the windows in the upper floors. Whilst most of the windows satisfy the 15m requirement the 25m distance is not achieved as the almshouses all have small rear gardens which in some cases provide no more than a rear access. Due to the shape of the site and the relationship to the almshouses in Military Road Building A has the potential to result in a loss of privacy due to overlooking from the south (rear) and side (west) elevations, this is mitigated as described above namely fixed internal timber louvres, translucent glass to allow light in but prevent views out and the inclusion of graded film on communal rooms and a small section of parapet wall. Blocks B and C have no windows in the rear elevation of the projecting wing, but there are windows in all four storeys in the rear of the Magdalen Street element. Whilst graded film is proposed to some windows it is considered there are still potential issues with overlooking and a condition is recommended requiring a scheme of mitigation to be submitted and approved. It is considered that due to the difference in ground levels, new screening proposed and the mitigation condition proposed the amenity of residents will be satisfactorily protected.

### **Noise/Disturbance**

- 15.30 The following extracts are taken from the Operational Management Plan submitted with the application. This document states “Each Victoria Hall residence is self-managed with an on-site management suite containing a team of administration staff, caretaker and security cover that ensures the complex is maintained 24 hours a day, 7 days a week throughout the year. Our objective is to commit to the local areas in which we operate and to form lasting relationships with the local community - our onsite teams, staffed by local people, are responsible for achieving this.



“We are acutely aware of the close proximity of existing residential properties to the site and the need to protect the amenities and general wellbeing that existing residents currently enjoy... we therefore propose to establish a Community Steering Group that will create a regular forum which would include members of the local community with a specific invitation to representatives of the nearby Almshouses and Ward Councillors to participate, along with senior Victoria Hall Operations Management, the accommodation Hall Manager and most importantly student representatives.... We would initially propose that the Steering Group meet on a monthly basis, but upon inception it would be for the members themselves to determine the frequency of meetings.

Security Arrangements- Victoria Hall employ 24-hour Caretaking/Security staff specifically in order to provide assistance and support to students, staff, visitors and members of the local community. The 24-hour team are a proven aid to Victoria Hall's focus on the control of noise and anti-social behaviour on-site out of office hours. Caretaking / Security staff are responsible, throughout the 24-hour period, for patrolling the exterior and interior of the complex and for responding to incidents”.

- 15.31 The document also explains staff responsibilities for grounds maintenance cleaning and waste management. In respect of the latter the site caretaker will supervise collection days, ensuring that the bins are returned to the store once refuse vehicles have left the site. The refuse store will be subject to regular cleaning
- 15.32 The submitted document demonstrates the applicant is aware of the potential the development has to impact on the amenity of an area and residential amenity. It sets out staffing arrangements and describes how matters including security, waste management and parking will be dealt with. The legal agreement will secure the submission and agreement to an Operational Management Plan to include the various matters described above plus student arrivals and departures described below. Subject to the mitigation proposed and operational arrangements it is considered the proposed development will not adversely impact on existing residents. Indeed the removal of the existing derelict depot buildings should enhance the quality of the local environment.

### **Highway Safety and Parking Provisions (including Cycling)**

- 15.33 Members should note that there is no specific category within the adopted Car Parking standards that deals with off-campus student accommodation.
- 15.34 This application proposes 2 spaces. The supporting information states that 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.

15.35 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.

15.36 The Operational Management Plan will amongst other matters include measures to manage student arrivals and departures at the beginning and end of the academic year.

The key elements are set out below:

#### 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 a 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 on-site management team will employ students to act as guides/traffic marshals, who manage the flow of vehicles; and
- 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; and
- 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.

The considerable reduction in vehicle movements will be a significant benefit to the Area. The legal agreement will secure the provision of a Travel Plan and the management of student arrivals and departures.

### **Heritage and Archaeology**

15.37 Although the site is not within a conservation Area and does not include statutorily listed buildings the rear boundary 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

- 15.38 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). Historic England has not been consulted and raises no objection to either the demolition of the buildings or the redevelopment of the site in the detailed manner proposed.
- 15.39 A local list was prepared on behalf of the Colchester Historic Building Forum and adopted by the Council in 2011. A former tram shed is on the local list, this building includes an attractive brick façade to Military Road which is retained and incorporated into the development.
- 15.40 Existing tram tracks are to be retained and will be incorporated into the courtyard amenity areas. An existing plaque of the Borough's coat of arms will also be retained and incorporated and reused.
- 15.41 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 state "In our view the formally submitted scheme for the redevelopment of this major site adjacent to the Colchester New Town Conservation Area would, as stated in relation to the previous proposals, be an enhancement on the current street scene in this prominent location on Magdalen Street. Historic England are satisfied that the scale, massing and detailed design of the overall proposals remain contextually appropriate and 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.
- 15.42 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.
- 15.43 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. The Council's archaeologist recommends further archaeological investigation and recording of the buildings should be undertaken and these matters will be secured by conditions.

## **Air Quality**

- 15.44 The site is within the Air Quality Management Zone and the development may produce adverse air quality effects at sensitive locations and also lead to the exposure of future users to elevated pollution levels
- 15.45 However air quality was considered as part of the design development and a number of design features are incorporated 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 the blocks 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. 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.
- 15.46 An Air Quality Assessment was required in order to determine baseline conditions, consider site suitability for the proposed end-use and assess potential impacts as a result of the scheme.
- 15.47 During the construction phase air quality could be impacted as a result of demolition, earthworks, construction and track out activities. These activities have all been assessed and it is concluded that the use of good practice control measures would provide suitable mitigation for a development of this size and nature and reduce potential impacts to an acceptable level.
- 15.48 During the operational phase of the development there is the potential for air quality impacts as a result of variations to the local urban topography and as a result of changes in traffic flow on the local road network. Dispersion modelling has been undertaken to assess changes in pollutant concentrations at sensitive locations as a result of potential changes to the structural geometries of Magdalen Street. An assessment of the results indicates that predicted air quality impacts as a result of changes to the urban topography associated with the development were generally beneficial when considered on balance.
- 15.49 The assessment also indicated that predicted pollution levels were above the relevant air quality standard at the northern façade of Block A and C at ground and first floor levels. Mitigation in the form of mechanical ventilation has been specified for the affected units and it is considered this should ensure future occupants are not exposed to poor air quality.

15.50 Mitigation measures in respect of Air Quality include the following:

- Provision of a Travel Plan to encourage sustainable modes of transport to and from the site;
- Provision of tree planting along Magdalen Street and throughout the development to absorb pollution and increase deposition rates;
- Provision of secure cycle parking spaces; and,
- Provision of one Electric Vehicle (EV) charging point, serving 50% of the total car parking spaces

15.51 The specialist consultant employed by Environmental Protection to assess the Air Quality Assessment Report has confirmed that subject to the proposed mitigation being conditioned he is satisfied that the development is acceptable on air quality grounds.

### **Drainage/Flood Risk**

15.52 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.

15.53 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.

15.54 Essex County Council Flood & Water Management Planning & Environment team (SUDS) has reviewed the Flood Risk Assessment & Drainage Statement together with the associated documents and has raised no objection subject to conditions. Anglian Water has also raised no objection subject to conditions.

### **Landscaping/ Ecology**

15.55 The Arboricultural Report indicates that the trees within the development site Are self-seeded and consisted mainly of sycamore and ornamental species such as viburnum and Portugal laurel. These features are mainly on the rear boundary with the almshouses. They are all assessed as being of low quality and value (C category). The proposal is to remove all the trees and vegetation within the site. Crown pruning works will be necessary to a tree just outside but overhanging the site. The proposals include the planting of new trees and shrubs including tree planting along Magdalen Street. In the long term, the new tree planting has the potential to significantly enhance the public realm and provide effective screening to the rear boundary.

- 15.56 The application indicates hard and soft landscaping between buildings and along the rear boundary. Areas for cycle parking are included within the hard landscaped areas. The former tram lines 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 is acceptable, in principle.
- 15.57 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 any protected species other than bats where there is medium potential for roosting in some buildings and birds nesting in buildings. The report includes the following recommendations
- Roof coverings and soffits on Building B to be dismantled by hand under the supervision of a bat licenced ECoW.
  - Nesting birds (vegetation): Remove vegetation outside of the bird nesting season (i.e. between October and February inclusive, subject to weather conditions).
  - Nesting birds (Buildings A and C): remove roofs outside the main bird nesting season. ECOW to be present to oversee the removal of the roofs to minimise the risk of disturbing birds nesting in these buildings.

These matters will be secured by condition. If bats are present a license will be required from Natural England.

### **Land Contamination**

- 15.58 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. The report recommends additional 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.

### **Private Amenity Open Space Provision**

- 15.59 Members are advised that there is no specific policy standard that relates to the provision of private amenity or open space for student accommodation.
- 15.60 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 is south facing courtyard amenity space within the site between the buildings. These courtyard spaces will be screened from the Almhouses with tree planting. Their use will be managed by a Management Company. The proposed amenity space provision is considered acceptable.

## 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 cars brought to the site 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 site benefits from an extant permission for student accommodation comprising 230 bed spaces; this is a material planning consideration.
- 16.3 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. The massing will be broken down by the variation in fenestration and gaps between buildings.
- 16.4 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 façade and other features of local interest.
- 16.5 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. Subject to a legal agreement a conditional planning permission is recommended.

## **17.0 Recommendation to the Committee**

17.1 The Officer recommendation to the Committee is for:

17.2 APPROVAL of planning permission 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 Service to refuse the application, or otherwise to be authorised to complete the agreement.

17.3 The agreement to secure the following

- Restrict occupancy to students
- Agreement to employ an on-site manager/s and for there to be a 24/7 presence on site
- Travel Plan in accordance with Essex County Council guidance to include but not limited to monitoring fees to be prepared and agreed, a Travel Plan Co-ordinator to be employed and agreement that the Travel Plan will be regularly monitored by the council
- Details of an Operational Management Plan to be submitted and agreed to be substantially in accordance with the submitted document to include amongst other matters the management of the on-site parking spaces, the arrival and departure of students, the setting up and details of management and operation/membership of a Community Steering group, on site security measures, Management of all external areas including communal refuse storage areas. Rental Agreement Terms to provide for amongst other matters the occupation of units only by eligible students, a clause that eligible students cannot apply for residents parking permits or bring vehicles to Colchester whilst they are living at the approve development.
- A Financial contribution of £170,00 to be used to fund upgrading of buses with a catalytic reduction system, and/or the upgrading to current ECC specification, including real time passenger information, of a bus stop, and /or CCTV the provision of 2 cameras one on each road frontage linking to the Council's CCTV network
- Pedestrian path from Magdalen Street to Military Road to be available for public use in perpetuity between dawn to dusk and agreement that this path will not be to used as a vehicular through route

17.4 The Town & Country Planning pre-commencement conditions Regulations which came into force on 1 October requires the Local Planning Authority to give an applicant 10 working days' notice of any pre- commencement conditions and they have an opportunity to respond and to not agree to the condition/s. Conditions including archaeology, drainage and contamination are proposed as pre-commencement conditions. The 10 day period expires on the 18th October (the date of the Committee meeting) any amendment to the wording of condition/s will be reported on the amendment sheet or in a verbal update at the meeting.



**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 carried out in accordance with the details shown on the submitted Drawing Numbers 1745-10-001, 1745-10-005 B, 1745-20-001 B, 1745-20-002 B, 1745-20-003 B, 1745-20-004 B 1745-20-004 B, 1745-20-005 A, 1745-20-005 B, 1745-20-010 B, 1745-20-011 A, 1745-20-012 A, 1745-20-013 A, 1745-20-020 A, 1745-20-021 B, 1745-20-022 A, 1745-21-001 A, 1745-21-002 and 1745-21-003 except where the conditions below require amended or further details.

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

**3. Non Standard Condition – In accordance with approved plans**

Development in accordance with approved plans including cross section

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.

**4. Non Standard Condition - Additional drawings of architectural features**

Prior to the commencement of any above ground works, additional drawings that show details of all architectural features and screening features including, but not limited to, parapet to Block A, graded film to communal rooms brick recessed panels, recessed brick work, perforated brick panel, reveals, coping, windows, doors, brick bonds, brise-soleil, glazed screens, 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.

**5. Non Standard Condition - Materials To Be Agreed**

No above ground works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials and including a schedule of all types and colours of external materials to be used in construction 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. The materials shall be of the quality indicated in the application documents.

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 - Scheme of Features To Mitigate Overlooking**  
Prior to any above ground works taking place a detailed scheme, including samples where appropriate, to mitigate overlooking from the south elevation of Blocks A, B and C and the west elevation of Block A shall be submitted to and approved in writing by the local planning authority. The scheme shall include, but not be limited to, the measures described in the application documents and shown on the submitted plans. The approved scheme shall be implemented in full prior to the occupation of the development and shall thereafter be retained.  
Reason: To protect the privacy and amenity of adjacent residents.
- 7. Non Standard Condition - 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 in the interests of highway safety.
- 8. Non Standard Condition - Cycle Parking**  
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.
- 9. Non Standard Condition - Construction Method Statement/ Traffic Management Plan**  
No works shall take place, including any demolition, until a Construction Method Statement including a Traffic Management Plan 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 to include, but not be limited to;
- 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
  - vehicle wheel washing facilities within the site and adjacent to the egress onto the highway
  - 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 and 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.

**10. Non Standard Condition - Timing of construction and demolition**

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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.

**11. Non Standard Condition - Management Company for 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 there is a potential adverse impact on the quality of the surrounding environment.

**12. Non Standard Condition - No external lighting**

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

**13. Non Standard Condition - Site Boundary Noise Levels (for any fixed plant and equipment)**

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 site's plant, equipment and machinery shall not exceed 0dB(A) 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.

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.

Note: 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.

**14. Mechanical or Enhanced Passive Ventilation Noise**

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, a scheme of mechanical or enhanced passive ventilation with appropriate sound insulating properties shall be submitted to and approved by the local planning authority prior to the commencement of any above ground works. The scheme shall ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime. The development shall thereafter be carried out in accordance with the details approved, prior to the occupation of the development, and shall be retained in accordance with these details thereafter.

Note: In order to comply with the above standard, especially for maximum noise levels in bedrooms at night, we estimate the minimum sound reduction for bedrooms located on the facades exposed to Magdalen Street to be 45dB, rather than the 40dB specified in the acoustic report. This will require mechanical ventilation, the noise from which should be considered when calculating internal levels.

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.

**15. Non Standard Condition - Mechanical Ventilation Air Quality**

Prior to any above ground works to Block A and Block C a scheme of mechanical ventilation to the ground and first floors of the north (front) facing elevation of these blocks shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also include the position of the proposed air inlet, or alternative, on facades where AQO exceedences are not predicted.

Reason: To ensure future occupants are not exposed to poor air quality.

**16. Non Standard Condition - Hard and Soft Landscape Scheme**

Prior to any above ground works full details of all landscape works shall have been submitted to and agreed, in writing, by the Local Planning Authority and the approved 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 details shall include:

- THE RETAINED TRAM LINES
- WORKS TO EXISTING AND NEW RETAINING WALLS
- GREEN SEDUM ROOFS
- PROPOSED FINISHED LEVELS OR CONTOURS;

- TREE PLANTING TO MAGDALEN STREET
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS; full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts
- 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.

**17. Non Standard Condition - Landscape Management Plan**

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.

**18. Non Standard Condition - Tree Protection:**

No works shall take place until the tree identified in the Arboricultural Report as T9 has been safeguarded behind protective fencing in accordance with BS 5837. All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing tree adjoining the site in the interest of amenity.

**19. Non Standard Condition - No Burning or Storage of Materials**

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

**20. Non Standard Condition - Refuse and Recycling As Shown**

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

**21. Non Standard Condition - Retention of Historic Features**

Prior to the commencement of any demolition works the plaque of the Borough Coat of Arms shall be removed, retained and incorporated in the façade of the locally listed building Military Road frontage. The brick façade to the locally listed building fronting Military Road shall be retained in situ. Prior to any demolition taking place the façade shall be made secure in accordance with a detailed scheme (including elevations and proposed materials) submitted to and approved in writing by the local planning authority, the details shall include the making good of the façade, details of the substation and the re-location of the plaque of the Borough Coat of Arms within the brick façade. The approved scheme shall be constructed prior to the occupation of any part of the development.

Reason: To ensure these features of local historic importance are retained on the site.

**22. Non Standard Condition - Boundary Fence**

Prior to any works taking place, with the exception of demolition works, details, including design and materials, of a 2 metre high closeboarded fence to be erected, on the site boundaries (with the exception of the Magdalen Street and Military Road frontages) shall be submitted to and approved in writing with the Local Planning Authority. The extent of the 2 metre high fencing required shall be agreed in writing with the Local Planning Authority and the approved details shall be implemented in full prior to any occupation and shall thereafter be retained.

Reason: In the interests of residential amenity.

**23. Non Standard Condition - No amplified sound**

No amplified sound is permitted outside the buildings.

Reason: To protect the amenities of adjacent neighbours.

**24. Non Standard Condition - Contamination**

No development approved by this planning permission, 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 aquifer, 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 Position Statements (2017) A4 – A6, J1 – J7 and N7. 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).

## **25. Non Standard Condition - Verification Report**

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 aquifer, from potential pollutants associated with current and previous land uses) in line

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with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 – A6, J1 – J7 and N7. 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).

**26. Non Standard Condition - Monitoring and Maintenance Plan in Respect of Contamination**

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.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary aquifer, 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 Position Statements (2017) A4 – A6, J1 – J7 and N7. 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).

**27. Non Standard Condition - Previously Unidentified Contamination**

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 aquifer,



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 Position Statements (2017) A4 – A6, J1 – J7 and N7. 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).

**28. Non Standard Condition - Drainage Systems**

No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: Infiltration through contaminated land has the potential to impact on groundwater quality.

**29. Non Standard Condition - Surface Water Drainage**

No works shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development.

The scheme should demonstrate compliance with the NSTS and ECC's Sustainable Drainage Systems design Guide, and should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure. Please submit infiltration tests that satisfy BRE 365 requirements or similar approved. Confirmation of contamination at the site should be provided if this is the reason why infiltration is precluded
- Surface water drainage features should replicate natural drainage with preference for at surface drainage features to ensure the SuDS principles are satisfied.
- Limiting discharge rates from the site to as close as reasonably practicable to an absolute minimum of 50% betterment on existing runoff rates for all rainfall events up to and including the 100 year rainfall.
- Provide sufficient surface water storage so that the runoff volume is discharged or infiltrating at a rate that does not adversely affect flood risk and that unless designated to flood that no part of the site floods for a 1 in 30 year event, and 1 in 100 year event in any part of a building, utility plant susceptible to water within the development.

- Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus climate change event. Provide details of pre- and post-development 100 year, 6 hour runoff volume.
- Final detailed modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy with evidence that adequately demonstrates that the receiving authority for the surface water discharge has confirmed acceptability.

The scheme shall subsequently be implemented prior to occupation.

Reason:

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

To ensure the effective operation of SuDS features over the lifetime of the development.

To provide mitigation of any environmental harm which may be caused to the local water environment.

NB Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

### **30. Non standard condition - Maintenance Plan for Surface Water Drainage**

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

NB Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

**31. Non Standard Condition – Yearly Logs of Maintenance**

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

**32. Non Standard condition - Electric Vehicle and Bicycle Charging Points**

Prior to the occupation of any part of the development an Electric Vehicle charging point, and four Electric Bicycle charging points shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided and thereafter retained.

Reason: To ensure that adequate provision is made for electric charging points to encourage and facilitate alternative modes of transport and in the interests of both the environment and highway safety.

**33. 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'. (Contaminated Land Part 1 of 4)

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

**34. 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. (Contaminated Land Part 2 of 4).

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

**35. 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. (Contaminated Land Part 3 of 4).

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

**36. 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 Contaminated Land Part 1 OF 4, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition Contaminated Land Part 12 OF 4, 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 Contaminated Land Part 3 of 4.

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

**37. ZG3 - \*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 Conditions above.

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

**38. Non Standard Condition - Archaeology Recording**

No works shall take place, including demolition, until the implementation of a programme of below ground archaeology recording 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:

- The programme and methodology of site investigation and recording.
- The programme for post investigation assessment.
- Provision to be made for analysis of the site investigation and recording.
- Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- Provision to be made for archive deposition of the analysis and records of the site investigation.
- 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 reporting 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.

(NB A trial-trenched archaeological evaluation will be required to establish the below-ground archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation. Whilst 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).

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 Adopted Development Policy DP14 (2010,

Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

**39. Non Standard Condition - Building Recording**

No demolition works shall take place until, a programme of building recording and analysis shall have been undertaken and a detailed record of the buildings shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority. {In this case, a historic building survey should be carried out, by a historic buildings specialist. The objective should be to compile a record of the affected building at Historic England Level 3, as described in Understanding Historic Buildings: A Guide to Good Recording Practice (Historic England 2016)}. Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

Informative on Archaeology:

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/Archaeologyandtheplanningprocess>

**40 Non Standard Condition - Ecology**

The roof coverings and soffits on Building B to be dismantled by hand under the supervision of a bat licenced Ecology Clerk of Works (ECOW). Any vegetation shall be removed outside of the bird nesting season (i.e. between October and February inclusive, subject to weather conditions). The roofs of buildings A and C shall be removed outside the main bird nesting season, the ECOW shall be present to oversee the removal of these roofs to minimise the risk of disturbing birds nesting in these buildings.

Reason: To ensure that adequate measures are taken to protect wildlife species.

**41. Non Standard Condition - Highway Works**

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

a) A vehicular access off Magdalen Street in the location shown in principle on the planning application drawings. Access shall have but be limited to a clear to ground 43 x 2.4 x 43 metre visibility splay. This may require the loading bay to be located further east

b) A minimum 2 metre wide footway along the proposal site frontage in Magdalen Street

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

**42. Non Standard Condition – Highway Works**

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

Notes:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate
- 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

**43. Non Standard Condition - Foul Water Strategy**

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

**44. Non Standard Condition - Surface Water Management Strategy**

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

FOR THE ATTENTION OF THE APPLICANT – in respect of the above two conditions please see below information:

Next steps

Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. We therefore highly recommend that you engage with Anglian Water at your earliest convenience to develop in consultation with us a feasible drainage strategy.

If you have not done so already, we recommend that you submit a Pre-planning enquiry with our Pre-Development team. This can be completed online at our website <http://www.anglianwater.co.uk/developers/pre-development.aspx>

Once submitted, we will work with you in developing a feasible mitigation solution.

If a foul or surface water condition is applied by the Local Planning Authority to the Decision Notice, we will require a copy of the following information prior to recommending discharging the condition:

Foul water:

Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:

- Development size
- Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s)
- Connecting manhole discharge location (No connections can be made into a public rising main)

Notification of intention to connect to the public sewer under S106 of the Water Industry Act (More information can be found on our website)

Feasible mitigation strategy in agreement with Anglian Water (if required)

Surface water:

Feasible drainage strategy agreed with Anglian Water detailing the discharge solution, including:

- Development hectare size
- Proposed discharge rate (Our minimum discharge rate is 5l/s. The applicant can verify the site's existing 1 in 1 year greenfield run off rate on the following HR Wallingford website -<http://www.uksuds.com/drainage-calculation-tools/greenfield-runoff-rate-estimation>)
- For Brownfield sites being demolished, the site should be treated as Greenfield. Where this is not practical Anglian Water would assess the roof area of the former development site and subject to capacity, permit the 1 in 1 year calculated rate)
- Connecting manhole discharge location

Sufficient evidence to prove that all surface water disposal routes have been explored as detailed in the surface water hierarchy, stipulated in Building Regulations Part H (Our Surface Water Policy can be found on our website)

## **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](http://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. Anglian Water informative**

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

### **5. HIGHWAY AUTHORITY INFORMATIVES**

- 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

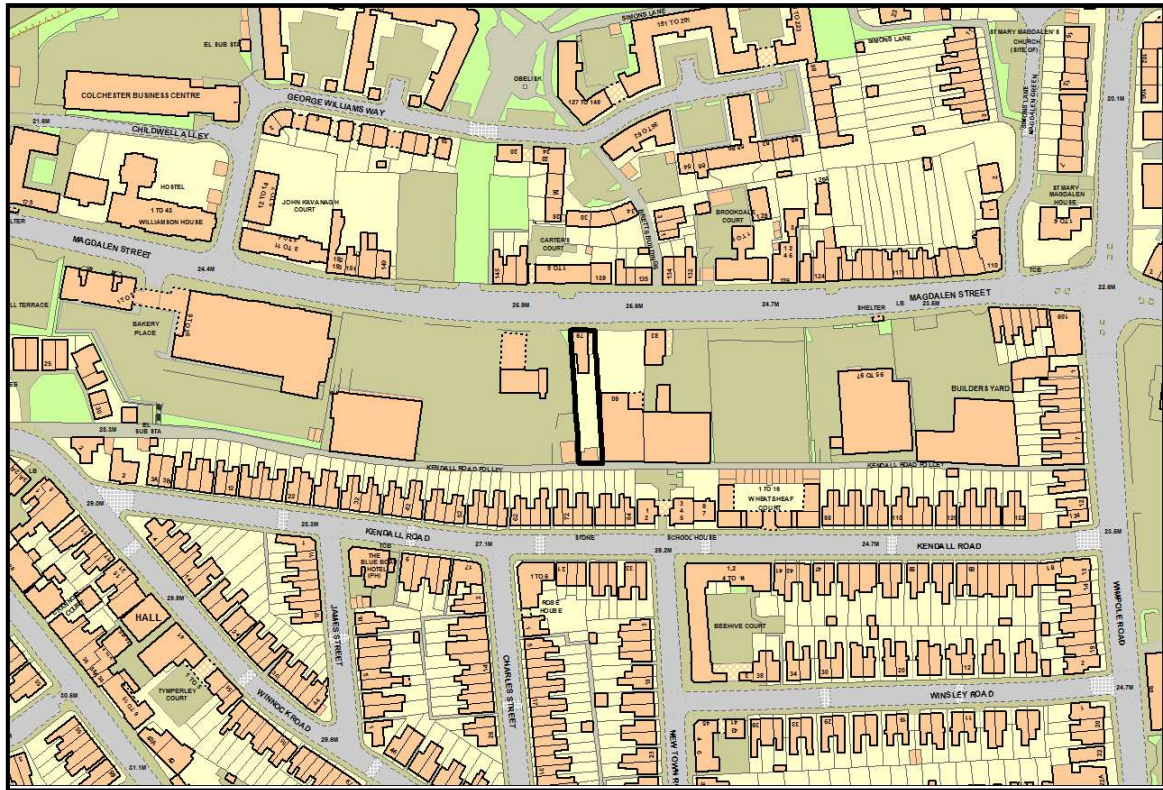
### **6. ZTC - Informative on Noise and Sound Insulation Competent Persons**

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'.

### **7. ZTG - Informative on Section 106 Agreements**

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.





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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 100m<sup>2</sup> 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 100m<sup>2</sup> 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 18<sup>th</sup> 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](http://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](mailto: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.



## Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

## **Planning Obligations**

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

## **Human Rights, Community Safety and Equality and Diversity Implications**

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

## Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- |  |                         |
|--|-------------------------|
| 1. Necessary                             | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable           |
| 5. Precise                               | 6. Enforceable          |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

### **Parking Standards**

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



## **Colchester Borough Council Environmental Control**

### **Advisory Notes for the Control of Pollution during Construction and Demolition Works**

*The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.*

#### **Best Practice for Construction Sites**

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

##### **Noise Control**

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

##### **Emission Control**

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

## **Best Practice for Demolition Sites**

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

### **Noise Control**

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

### **Emission Control**

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.



# **The Town and Country Planning (Use Classes) Order 1987 (as amended)**

## **Class A1. Shops**

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

## **Class A2. Financial and professional services**

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

## **Class A3. Restaurants and cafes**

Use for the sale of food and drink for consumption on the premises.

## **Class A4. Drinking establishments**

Use as a public house, wine-bar or other drinking establishment

## **Class A5. Hot food takeaways**

Use for the sale of hot food for consumption off the premises.

## **Class B1. Business**

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
- (b) for research and development of products or processes, or
- (c) for any industrial process,

being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

## **Class B2. General industrial**

Use for the carrying on of an industrial process other than one falling within class B1 above

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

**Class C2. Residential institutions**

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

**Class C3. Dwellinghouses**

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

**Class C4. Houses in multiple occupation**

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

**Class D1. Non-residential institutions**

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

**Sui Generis Uses**

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

***Interpretation of Class C3***

*For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.*

***Interpretation of Class C4***

*For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004*

## **Supreme Court Decision 16 October 2017**

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

*If Councillors require more information, or minor amendments to be explored, then the item should be deferred.*

*If no more information or amendment is desired Councillors will proceed to propose a motion.*

