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Item No: 7.4

Application: 231370

Applicant: Mr Osman Rasih

Agent: Mr Wilton Ndoro

Proposal: Planning permission is sought for replacement of timber sash windows with upvc sash windows which will be painted black. Also new timber door to flats and re-instatement of parapet & clock to front elevation.

Location: 4 St. Botolphs Street, Colchester, CO2 7DX

Ward: Castle

Officer: Hayleigh Parker Haines

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee in the interests of transparency, given the number of local representations having been received.

2.0 Synopsis

2.1 The key issues for consideration are the impact of the works on the character and appearance of the conservation area and the significance of the locally listed building.

2.2 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable on balance. The below report details how this recommendation has been reached. The application is subsequently recommended for approval.

3.0 Site Description and Context

3.1 The application site is a corner plot which sits to the west side of St Botolphs Street and the south of Vineyard Street and is occupied by a grand locally listed Victorian building within the Colchester Area No.1 (City Centre) Conservation Area.

4.0 Description of the Proposal

4.1 Retrospective planning permission is sought for the replacement of the previous timber sash windows with UPVC sash windows. At the time of the previous application 230533, it was observed during a site visit that the windows had been replaced and therefore, a separate application was invited to regularise these works and for an appropriate assessment to be undertaken given the proposed finishing.

4.2 Planning permission is also sought for the reinstatement of the parapet detail to the front elevation at roof level, this was removed due to being in a state of disrepair and is claimed to have represented a dangerous structure. It is also proposed to reinstate a clock to this feature, as was historically present. These works are currently underway. Also proposed in the installation of a timber door to the ground floor northern elevation to replace the existing opening.

5.0 Land Use Allocation

5.1 The application site benefits from a lawful, business, commercial and service use (class E – nightclub) at ground floor and residential use (flats) to the first and second floors.

6.0 Relevant Planning History

6.1 The site benefits from recent planning applications for the conversion of the upper floors to residential units:

230533 – Conversion of part of Nightclub to provide 5 flats – Approved

230407 – NMA for internal reconfiguration of flats approved under 171871 - Approved

171871 - Proposed conversion of part of Silk Road into 3 no flats – Approved

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 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

ENV1 Environment
DM15 Design and Amenity
DM16 Historic Environment

7.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
External Materials in New Developments
St Botolph's Masterplan

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.

The Historic Buildings and Areas Officer has identified that the replacement windows have resulted in less than substantial harm to the character of the

Conservation Area and has recommended additional details in terms of the detailing of the parapet and replacement door are sought should the application be approved

Colchester Civic Society have objected to the replacement windows due to the impact on the character of the locally listed building, conservation area and the potential precedent which could be set.

9.0 Parish Council Response

9.1 The site is within an area that is Non-Parished

10.0 Representations from Notified Parties

10.1 The application has not resulted in any letters of objection from neighbouring properties.

11.0 Accessibility

11.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of potential direct or indirect discrimination.

12.0 Air Quality

12.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

13.0 Planning Obligations

13.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

14.0 Report

14.1 The main issues in this case are:

- Design and Impact on the Surrounding Area, Conservation Area and the significance and fabric of a locally listed building.

14.2 Design and Impact on the Surrounding Area, Conservation Area and the significance and fabric of a locally listed building.

14.2.1 Policy ENV1 seeks to conserve and enhance Colchester’s natural and historic environment. Policy SP6 seeks to promote and secure high quality design and provide buildings that exhibit individual architectural quality within well-considered public and private realms. Policies DM15 states development must

be designed to a high standard, positively respond to its context, achieve good standards of amenity, and demonstrate social, economic and environmental sustainability. Great weight will be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Poor design will be refused including that which fails to take the opportunity for good design or improving the local area. This policy also sets out design criteria that new development must meet. These require new development to be of a high quality, respect the character of the site and its context and help establish a visually attractive sense of place for living, working and visiting through good architecture and landscaping.

14.2.2 Furthermore, given the sites location within the Conservation Area alongside the building itself being regarded as a Non-Designated Heritage Asset (NDHA). Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to pay special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

14.2.3 The National Planning Policy Framework (2021) is an additional consideration. Section 16, Par. 199 determines that when considering the impact of a proposed development on the significance of a designated heritage asset, (*Conservation Area*) great weight should be given to the asset's conservation. Par. 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Para. 202 clarifies that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Additionally, Para. 203 requires that the determination of applications should consider the effect on the significance of a non-designated heritage asset and when applications directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

14.2.4 The above legislation and national policies for the protection of Conservation Areas and non-designated heritage assets are reflected in Colchester Local Plan 2017-2033-Section 2 Policies ENV1-Environment and DM16- Historic Environment which seek to protect Colchester's built heritage and enhance the historic environment. Policy DM16 reflects the provisions of the NPPF and clarifies that, where development will lead to less than substantial harm to the significance of Conservation Areas, this harm should be weighed against the public benefits of the proposal. The Policy also stresses that the conservation of Colchester's historic environment will be ensured by the protection and enhancement of existing buildings which do not have Listed Building status but have a particular local importance or character which it is desirable to conserve.

- 14.2.5 St Botolph's Street is a continuation of Queen Street, sloping down from the site of the former South Gate to the junction with Osborne Street and Magdalen Street at the area of St Botolph's Circus. The street still retains much of its 19th century mercantile character, although the appearance of the buildings is sometimes better retained on the upper floors; the ground floors accommodate commercial uses and the street frontage is characterised by shopfronts and signage of varying design and quality.
- 14.2.6 The application property is situated on the west side of the street which comprises a mix of two and three-storey buildings, mostly of mid and late 19th century date. The scale tends to decrease towards southern end of the street and the most prominent buildings are the application building on the corner with Vineyard Street and no 6-8, an imposing building with classical detailing.
- 14.2.7 The removed timber sash windows were original features that made a significant contribution to the architectural interest of the locally listed building. By virtue of their material, profile, design and details, the replacement uPVC windows fail to replicate accurately the appearance of the historic sashes. The use of regular rectangular sashes in arched windows (where the profiles of the historic windows matched the geometry of the opening) results in a jarring effect, while the use of visible trickle vents draws additional attention to the recent replacement of the windows and detracts further from their appearance.
- 14.2.8 The use of vertical glazing bars to the windows which were not previously subdivided in this manner is inaccurate but generates lesser concerns. By virtue of their size and proportions, the windows lend themselves well to this subdivision. The use of the glazing bars is perhaps more detrimental when the windows are viewed from the interior of the building and it becomes apparent that they are not traditional, integral glazing bars but applied on the face of the glass. This detail makes more noticeable the fact that the windows are modern, double-glazed units. However, when seen from street level, this detail does not stand out and as such, the use of the vertical glazing bars is a less problematic aspect of the proposal.
- 14.2.9 For the reasons set out above, the loss of the original timber fenestration and its replacement by uPVC windows is regrettable and has an adverse impact on the significance of the locally listed building. The alteration detracts from its character and appearance and this detrimental change reflects adversely on the authenticity of the street scene, having thus a negative impact on the designated Conservation Area that amounts to a level of harm identified as *less than substantial*, as per the classification used in the NPPF.
- 14.2.10 Due to these concerns, the application was amended in order to seek some mitigation of this harmful impact. For the revised reiteration, the white uPVC windows shall be painted black and the visible trickle vents shall be removed. At the time of writing, the proposed change has been carried out to certain windows and was inspected externally prior to the preparation of this report. Wider experience of the successful use of non-white uPVC windows suggests that the use of a different colour finish, especially of a dark shade, has a positive effect on their appearance. The white colour is more reflective and makes their texture and extruded materials more conspicuous whereas a dark colour has a more muted effect. Moreover, the use of dark colour masks some

details that make the material of the windows more obvious, such as the fake joints which stand out when the windows are white. Furthermore, double glazed uPVC windows have heavier profiles in comparison to single glazed timber windows; a dark shade helps to create an impression of slimmer profiles.

- 14.2.11 Moreover, the use of the dark colour that blends with the glazing makes the rectangular windows that were inserted into the arched openings somewhat less conspicuous. Additionally, the original windows were cream-coloured and matched the rendered surrounds. The use of the white colour had an unsympathetic effect because it appeared almost as a mistake, a failure to select the right shade to match the surrounds. The use of an entirely different shade reads as an aesthetic choice rather than an unfortunate mismatch. Furthermore, the use of brilliant white is historically inaccurate; during the early 18th century broken white was the most popular finish for sash windows but in the late 18th century, the use of alternative paint finishes for window frames, including green, grey, brown, black, and grained, rose in popularity, especially in the context of light-coloured stucco or stone facades. Off-white window frames became standard again in the late 19th century but, in the case of the site, the use of the black colour for the frames appears more contextually appropriate than the initial bright white which was never in use historically.
- 14.2.12 The proposed modifications (change of colour and removal of the visible trickle vents) have the potential to improve the appearance of the windows and secure some mitigation of their adverse impact on the appearance of the building and its surroundings. Although it does not fully reverse the adverse impact to the significance of the locally listed building and the harm to the significance of the Conservation Area, this harm would be moved lower in the spectrum of *less than substantial harm*.
- 14.2.13 The application also proposes the reinstatement of the parapet detail on the corner of the building; the parapet was modified during recent external repair works. The tall segmental pediment with the large, decorated keystone and the roundel that once accommodated a clock was an imposing decorative feature that enhanced the appearance of the building and stressed its importance as a corner building which makes a notable contribution to the street. Its loss is detrimental to the appearance and significance of the locally listed building and has an adverse impact on the Conservation Area designation as well. The proposal for its reinstatement, together with the clock that was removed at an unknown date, is welcome. However, the details of the work need to be informed carefully by historic and more recent photographs to ensure that this architectural feature will be replicated accurately and to appropriate standards. The proposed use of plywood roundel is acceptable on balance but a planning condition that requires large scale drawings of the parapet detail would be pertinent should the application be approved.
- 14.2.14 The application proposes a new door to the entrance of the flats on the Vineyard Street elevation. The model that was submitted in 18/03/2023 is a timber door of contemporary generic design that is better suited to a modern development but is entirely inappropriate for the age, character and context of the host building. Since the use of the new door is acceptable in principle, the details of the works can be secured by a planning condition should the

application be approved. The works represent an opportunity to enhance the side elevation of the building that has been marred by unsympathetic alterations in the past and mitigate further the harm from the loss of the timber windows. Images of the site from Google Street View in 2009 show the original door surround with pilasters and projecting cornice with dentils. These details of the door surround should be reinstated like-for-like in rendered masonry, as seen in the old images of the building, together with a traditional timber door of appropriate design.

14.2.15 In conclusion, the removal of the original timber sash windows and their replacement by uPVC sash windows has an adverse impact on the significance of the locally listed building through loss of original features and unsympathetic alteration to its appearance. The alteration reflects poorly on the street scene and has negative impact on the designated Conservation Area that amounts to a less than substantial level of harm to its significance. The modification of the windows with the use of black colour and the removal of the visible trickle vents would mitigate this harm to a certain extent, moving the harm lower in the spectrum of less than substantial. Having regard for the provisions of the NPPF (Par.202) and the Local Plan (Policy DM16) which require that any harm to the significance of designated Conservation Areas should be weighed against the public benefits of the proposal (should this harm be identified as less than substantial), this assessment will be undertaken below.

15.0 Planning Balance and Conclusion

- 15.1 The National Planning Policy Framework (2021) is an additional consideration. Section 16, Par. 197 (a) states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Par. 202 requires any harm to the significance of designated Conservation Areas to be weighed against the public benefits of the proposal.
- 15.2 Although the building is not afforded listed status; it does form part of Colchester's Local List and has sufficient heritage interest for its age, and contribution to the wider streetscene to be regarded as a non-designated heritage asset. The works were undertaken due to the previous windows being in a state of disrepair and to improve the thermal efficiency of the building as a whole, whilst the loss of timber windows, within the conservation area is regrettable, as discussed above, this is considered to have resulted in *less than substantial harm* to the character and appearance of the conservation area. Furthermore, other material considerations such as retention of facilities within the Town Centre, active use of upper floors of commercial buildings and improved thermal and acoustic performance need to be considered alongside retaining and sustaining the significance of non-designated heritage assets also weigh in the assessment.
- 15.3 It is clearly desirable to see active residential use of upper floors return to the city centre. Residents spend in the local economy and help sustain businesses and services. The loss of historic fenestration is always as discussed above,

regrettable and has had an adverse impact on the conservation area. The preamble to Policy TC3 of the Local Plan states that at St. Botolph's, the Council is actively pursuing a co-ordinated scheme for redevelopment of the outdated buildings and vacant land in line with long-standing Council objectives for the area to achieve a mixed-use development with a focus on leisure and related uses. The overarching principle is to enhance and create an attractive Town Centre to enhance vitality and viability. The proposed works, indirectly ensure that the leisure/commercial aspect is retained at ground floor whilst providing an active use to the upper floor to effectively utilise the land accordingly.

- 15.4 It is also pertinent to note that no enforcement complaints had been received at the time the replacements were installed or as part of the previous application, whereby it was noted by Officers that this had taken place. Given the lack of comments, it is considered, whilst of little weight, that the replacement windows were not overly prominent or alien. Prior to receipt of the retrospective application no representations had been received from the Civic Society. The upper floors of a number of commercial premises fronting Queen Street/St Botolph's are sadly now marred by poor quality plastic replacements. The windows as installed are sliding sashes and being plate glass involve a lesser loss of detail than if the originals were small paned or marginally glazed sashes and therefore, are comparatively, due to the detailing of the original windows, more sympathetic.
- 15.5 Furthermore, there is a heritage deficit associated with the cost of maintenance and repairs to period timber windows and the immediate area suffers as a consequence from inappropriate materials and detailing whenever interventions occur. The planned uplift in this key regeneration area may help to reverse this trend but at the present time grant support is probably needed to deliver works to an appropriate conservation standard.
- 15.6 Taking into account the above, it is considered there is a *less than substantial harm adverse impact* on the conservation area designation, whereby the public benefits of securing a commercial property within the Town Centre, active upper floors of this premises alongside the retention of the locally listed building, in a suitable manner alongside the reinstatement of the parapet detailing, when weighed up are considered on balance to outweigh the *less than substantial harm* to the conservation area.
- 15.7 It is noted that a very detailed objection from the Civic Society has been received whereby it is opined that the nightclub business is not one that is desirable for retention. However, this is considered to be an important footfall driver in a regeneration area and an important part of the night time economy with Leisure, food, and beverage uses increasingly important in an age of shrinking demand for retail floorspace.
- 15.8 The objection also relays concerns in relation to the precedent this applications approval could set for other business and homeowners in the area that benefit from timber windows. It should be noted that each application is and should be determined on its own merits. It is considered, as

discussed below, that this application provides specific benefits that overcome the less than substantial harm identified.

15.9 Given the specific circumstances of the proposal described above, the preservation of a non-designated heritage asset, the less than substantial harm to the character and appearance of the conservation area, the proposed development would not conflict with Policies SP7, DM15, DM16 or ENV1 of the local plan which seek to conserve and enhance Colchester's natural and historic environment, promoting high quality design to a degree that would warrant the refusal of the application. Whilst the replacement of timber windows with UPVC are not normally supported within historic areas, planning approval is justified due to the particular circumstances of this application which have enabled a change of use to take place within a building that has some historic value, promoting active usage of the upper floors of a commercial unit, in a regeneration area. Furthermore, the proposal includes the reinstatement of a clock, which was a historic feature of the building and therefore, the conservation of the non-designated heritage asset is in accordance with national policy and should be given considerable weight. The environmental aspects of the application are considered to have an adverse impact however given the proposal will provide social and economic benefits by retaining a commercial ground floor and as such providing a community leisure/commercial facility, it is considered to outweigh the harm identified to the historic environment. Consequently, a conditional approval is recommended on balance.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. Time Limit for Full Permissions

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

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

2. Development to Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: B56-100- REV02, B56-505-REV02

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3. Additional Details – Door and Parapet

Notwithstanding the details shown on the approved drawings, prior to implementation of the works hereby approved, additional drawings that show details of the proposed external door and doorcase on Vineyard Street, (including pilaster and entablature details), and the roof parapet 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 within six months of the date of this decision notice.

Reason: There is insufficient detail with regard to these architectural features to protect the special character and architectural interest of the conservation area and integrity of the building in accordance with the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in conformity with policy DM16 of the Colchester Local Plan.

4. Clarification regarding Window finish

For the avoidance of doubt, within 3 months of the date of this permission, all replacement windows to the upper floors of the building as outlined in red on plan ref: B56-100- REV02 shall be finished in a matt black and retained as such in perpetuity.

Reason: In order to preserve the historic character and appearance of the locally listed building and wider surrounding Conservation Area.