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Item No: 7.4

Application: 232367

Applicant: Mr 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. Top of sash windows at front corner to be curved to match original windows. Also new timber door to flats and re-instatement of parapet & clock to front elevation.(resubmission of 231370)

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

Ward: Castle

Officer: Daniel Bird

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because previous application 231370 was refused at committee and this submission aims to overcome the previous concerns.

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 timber sash windows with upvc sash windows which will be painted black. The top of the sash windows at the front corner are to be curved to match the style of the original windows. Also a new timber door with door surround with pilasters to be re-instated like for like in rendered masonry. Also the re-instatement of the parapet & clock to the front elevation.
- 4.2 Detailed drawings have been provided to illustrate the design and finish of the door details, clock, parapet and window arches to reinstate some of the historic features of the building.

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:

231370 - Replacement of timber sash windows with upvc sash windows, new timber door to flats and re-instatement of parapet & clock to front elevation. – Refused

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
Colchester City Centre 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. However the additional details in terms of the detailing of the parapet, replacement door, door surround, clock and window arches are considered to mitigate this harm.

Colchester Civic Society have objected to the replacement windows due to the impact on the character of the locally listed building, conservation area.

The Highway Authority have requested a construction management plan be conditioned if the application is approved.

9.0 Parish Council Response

- 9.1 The site is Non - Parished

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.

Concerns regarding the impact of the UPVC windows on the character and appearance of the conservation area and the significance of the locally listed building.

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.

14.3 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.

14.4 Furthermore, this is of particular importance given the location of the site 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.

14.5 The National Planning Policy Framework (2023) is an additional consideration. Section 16, Par. 205 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. 206 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. 208 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. 209 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.

- 14.6 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.
- 14.7 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. The site falls within a key regeneration area within the city centre and occupies a particularly prominent corner site.
- 14.8 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.
- 14.9 This application follows application 231370 that was refused at Planning Committee on 07/09/23. Compared to application 231370, the present application proposes the use of uPVC windows for the corner windows of the property with a curved top light that matches the arch lintel for two windows on the corner of the building, a detail that was present in the original timber windows. The application also proposes the reinstatement of the parapet and clock that were also removed without permission and the details contained within drawing 856 - 506- REV 01 are considered to overcome the previous concern.
- 14.10 Application 231370 proposed some modifications to the uPVC windows including a change of colour and removal of the visible trickle vents, seeking to improve the detailed design of the windows to secure some mitigation of their adverse impact on the appearance of the building and its surroundings. The present application proposes additional mitigation via the modification of the corner windows that represents an additional improvement. As concluded in the case of the former application 231370, these modifications still do not fully mitigate the adverse impact to the significance of the locally listed building and the consequential harm to the significance of the wider Conservation Area, but the magnitude of harm would be moved lower in the spectrum of '*less than substantial harm*'.

- 14.11 With regard to the parapet and clock, the proposal for their reinstatement is welcomed. However, 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 an appropriate architectural and structural standard. The details outlined within drawing number 856 - 506- REV 01 and 856-505 REV 04, are considered to further assist in offsetting the identified harm associated with the installation of plastic replacement windows.
- 14.12 Similarly, the reinstatement of a new door and surround to the ground floor street entrance to the flats on the Vineyard street elevation represents an opportunity to enhance the side elevation of the building that has been marred by unsympathetic alterations in the past. 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 panelled door of appropriate design. The amended details supplied within drawing numbers 856 - 506- REV 01 and 856-505 REV 04, provide a method to implement these changes, which is considered to further mitigate the impact of the replacement windows.
- 14.13 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.
- 14.14 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 and the details supplied as part of this application are considered acceptable.
- 14.15 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 also has a wider negative effect on the street scene and thereby detracts from the significance of the designated Conservation Area. The magnitude of this harm amounts to a *less than substantial* level of harm to its significance. The modification of the windows with the use of black finish, the removal of the trickle vents, the reinstatement of the Vineyard Street door detailing and parapet and clock would serve to mitigate this harm, 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 is identified as less than substantial), this assessment will be undertaken below.

15.0 Planning Balance and Conclusion

15.1 The National Planning Policy Framework (2023) is an additional consideration. Section 16, Par. 209 states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that 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.

15.2 Although the building is not afforded statutory 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 authentic sash 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, the 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 in the planning balance.

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 city 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 building.

15.4 Taking into account the above, it is considered there is a *less than substantial* adverse harm 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, clock and side door surround, when weighed up are considered on balance to outweigh the less than substantial harm to the conservation area.

15.5 The circumstances of this application are considered materially different as a result of the additional details provided concerning the reinstatement of the proposed door surround, parapet, clock, ball finial, door surround and improved corner window design to reinstate arch-headed windows. This proposal will enable the details to be agreed prior to determination and provide a scheme which can be impemented, within an agreed time frame. These additional details are considered on balance to overcome the concerns highlighted during the deliberations on the recent application by the committee and to mitigate the *less than substantial harm* identified to the non-designated heritage asset. The design and specification of the clock, parapet detail and door surround, are attributed considerable weight in the planning balance, as this would reinstate historic features to the building that are deemed to provide material public benefits to the wider conservation area. Consequently, a conditional approval is recommended on balance.

16.0 Recommendation to the Committee

16.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be completed before the expiration of two 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 856 - 100 - REV 02, 856-505 REV 04 and 856 - 506- REV 01

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

3. 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 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.

19.1 Informatives

19.1 The following informatives are also recommended:

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 City Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.