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**Item No:** 7.3

**Application:** 190631

**Applicant:** Vh (Colchester) Limited

**Agent:** Laura Dimond

**Proposal:** Application to vary condition 2 of planning permission.  
181281

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

**Ward:** New Town and Christ Church

**Officer:** Sue Jackson

**Recommendation:** Approval subject to signing a linking legal agreement

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

This application is referred to the Planning Committee because an increase in the height of the buildings is proposed and whilst the increase is minor the height of the buildings was an issue raised by Members when the original application was discussed by the Planning Committee.

The application also requires a linking agreement to ensure the obligations secured under the original application are also required under this revised submission.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are a comparison of the approved development and the proposed amendments and their impact on residential and public amenity.
- 2.2 The application is subsequently recommended for approval subject to a linking agreement.

## **3.0 Site Description and Context**

- 3.1 The former bus depot 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.
- 3.2 Buildings on the site, with the exception of a small locally listed building, have recently been demolished following the grant of planning permission. The brick façade of the locally listed building (Tram Shed) on the Military Road frontage is retained in the approved and revised schemes.
- 3.3 There is a significant change in ground level between Magdalen Street and Military Road with the latter being at a higher level. The grade II listed Kendalls Almshouses located to the rear of the site are approx. 2.5 - 3.5 metres above the ground level of the site.
- 3.4 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.
- 3.5 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.
- 3.6 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 a 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.

- 3.7 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 northern 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 public house, 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 This application is to vary condition 2 of planning permission 181281, this condition lists the approved drawing numbers. Amended drawings have been submitted proposing the following revisions;
- The storey height of buildings increased from 2850mm floor to floor to 3000mm floor to floor to accommodate the proposed construction method;
  - Block A: Southern stair omitted; Internal arrangement of southern 'leg' revised; Elevations amended to suit internal reconfiguration;
  - Block B Level 00 – Glazed Fire Escape Door added to Common Room (East Elevation);
  - Block C: Block level raised by 600mm; Level 03 – Roof Maintenance Access Door (East Elevation);
  - Substation: Flat roof amended to be a slate pitched roof.

If approved condition 2 will be revised to include the new drawing numbers.

## **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 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 bed spaces (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.
- 6.2 181281 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 bed spaces (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, launderette and communal external amenity areas), two car parking spaces, landscaping and a new public pathway through the site. Approved subject to a legal agreement and conditions.

## **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  
UR1 - Regeneration Areas  
UR2 - Built Design and Character
- 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  
DP14 Historic Environment Assets

- 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 Submission 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.

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;
1. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
2. The degree of consistency of relevant policies to the policies in the Framework.

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 a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

The following policies are relevant;  
SP1 - Presumption in Favour of Sustainable Development  
EC3: East Colchester  
DM15: Design and Amenity

- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):  
Magdalen Street Development Brief

The Essex Design Guide  
External Materials in New Developments

## **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.
- 8.2 Contaminated Land Officer no comment
- 8.3 CBC Archaeologist no comment
- 8.4 Urban Design Officer offers no comment on the amendments

## **9.0 Parish Council Response**

9.1 N/A

## **10.0 Representations from Notified Parties**

10.1 No representations have been received.

## **11.0 Parking Provision**

11.1 The amendments do not generate a requirement for any additional parking.

## **12.0 Accessibility**

12.1 The proposed changes do not affect the access arrangements from those approved under the previous application.

## **13.0 Open Space Provisions**

13.1 There is no policy requirement for the provision of open space for student accommodation. The amendments do not generate a requirement for any additional open space.

## **14.0 Air Quality**

14.1 The site is within the Air Quality Management Area; the amended proposals do not require any air quality mitigation measures other than those secured under application 181281.

## **15.0 Planning Obligations**

15.1 This application proposes amendments to a “Major” application and whilst no new obligations are required for the amended proposals the original obligations, set out below, will be secured via a linking agreement;

- 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.

## **16.0 Report**

16.1 The main issues in this case are:

### The Principle of Development

16.2 The principle of development is established under application 181281.

### The Proposed Amendments

16.3 The following amendments are proposed to the approved development:

- Storey heights for all the buildings to be increased from 2850mm floor to floor to 3000mm floor to floor to accommodate construction method
- Block A: Southern stair omitted; Internal arrangement of southern 'leg' revised; Elevations have been amended to suit the new internal reconfiguration
- Block B: Level 00 – Glazed Fire Escape Door added to Common Room (East Elevation)
- Block C: Block level raised by 600mm; Level 03 – Roof Maintenance Access Door (East Elevation)
- Substation: Flat roof amended to be a slate pitched roof.

16.4 The applicant has explained the rationale for the proposed changes as follows;

“It is proposed to vary the overall building heights in order to accommodate the contractors’ preferred construction method. The additional height is required to accommodate the depth of the beams and to allow mechanical and electrical services to be routed beneath the structure whilst maintaining a standard internal ceiling height to the habitable spaces”.

16.5 Changes are sought to Block A as a sprinkler system is now proposed within the development in order to reduce the risk of fire. Within Block A this amendment has allowed the secondary stair to be removed following the internal reconfiguration of the building.

16.6 The changes proposed to Block B include the addition of a fire escape door to the common room. This amendment is proposed in response to recommendations received from Building Control.

16.7 Changes are proposed to Block C as the approved Block C ground floor level (+22900) is approximately 1.5m below existing adjacent external/building levels along the eastern boundary. Due to the proximity of Block C to the existing building to the east and the difference in height, the proposed excavation and foundation construction would require extensive structural works to underpin/retain the existing substructure. By raising the Block C ground floor level by 600mm to +23500 the building will relate better to the levels of the adjacent site and will also align with the existing pavement level at the eastern end of the site.

- 16.8 Amendments are also sought to the substation to vary the flat roof to a pitched slate roof. This amendment is proposed to provide additional support to the top section of the retained façade and to ensure the replacement roof is in keeping with the original material, fabric and form of the existing building. This amendment is welcomed as it will provide structure to the retained façade.

#### Impact on the Surrounding Area and Neighbouring Properties

- 16.9 The storey height of each floor of each building will increase by 150mm. Buildings A and B are 3 and 4 storeys in height the maximum total increase in height for these buildings is therefore 600mm (just under 2 feet). The 4 storey elements of the buildings are shown as between 13-14 metres on the approved drawings.
- 16.10 The storey height of each floor of building C (also 3 and 4 storeys) will also be increased by 150mm and in addition the ground floor is to be raised by 600mm a total increase of 1.2 metres for the 4-storey element.
- 16.11 From public viewpoints the changes to the height of the buildings will be virtually indistinguishable from the approved scheme and there will be no adverse impact on the surrounding area. Similarly, the increase in height will not be apparent from private properties and the amenity of residents will not be affected.
- 16.12 The removal of the secondary stair to Block A has resulted in a minor reduction in the footprint of the building on the rear south elevation. The internal reconfiguration includes a revised location to windows to the first and second floors on the east, west and south elevations. As these windows have the potential to overlook the almshouses they will either be glazed with translucent glazing or have graded film from the bottom of the window up to 1.5 metres. Conditions are proposed to secure these measures which will mitigate any adverse impact on neighbouring properties.
- 16.13 The fire escape door proposed to Block B is on the ground floor rear elevation and will not be visible to neighbouring properties.

### **17.0 Conclusion**

- 17.1 To summarise, the revisions proposed are considered minor and will not impact on either the street scene or resident's amenity.

### **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a linking agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting to link this application to the legal agreement for application reference 181281.



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. The Permission will also be subject to the following conditions:

or

APPROVAL of planning permission subject to the following condition:

**1. Removal/Variation of Condition(s) Approval**

With the exception of condition 2 of Planning Permission 181281 which is hereby varied, the requirements of all other conditions imposed upon planning permission 181281 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

**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 1745-10-001, 1745-10-005 C, 1745-20-001 C, 1745-20-002 C, 1745-20-003 C, 1745-20-004 C, 1745-20-004 C, 1745-20-005 C, 1745 -20-010 C, 1745-20-011 B, 1745-20-012 B, 1745-20-013 B, 1745-20-020 B, 1745-20-021 C, 1745-20-022 B, 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 - 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 east, south and 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.

#### **4. Non Standard Condition - Additional drawings of screening features**

Prior to the commencement of any above ground works, additional drawings that show details of all screening features including, but not limited to, parapet to Block A, graded film, brise-soleil, glazed screens, 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 to protect the privacy and amenity of adjacent residents.

### **19.0 Informatives**

19.1 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.