

APOLOGIES Committee Services  
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DIRECTOR OF STRATEGY AND  
RESOURCES  
Paul Dodson

23 July 2024

Dear Councillor

You are summoned to attend the meeting of the;

**CENTRAL AREA PLANNING COMMITTEE**

on **WEDNESDAY 31 JULY 2024** at **7.30 pm**

in the **Council Chamber, Maldon District Council Offices, Princes Road, Maldon.**

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A copy of the agenda is attached.

Yours faithfully



Director of Strategy and Resources

COMMITTEE MEMBERSHIP:

CHAIRPERSON	Councillor J Driver
VICE-CHAIRPERSON	Councillor J C Stilts
COUNCILLORS	S J Burwood K Jennings K M H Lagan A M Lay N R Miller N G F Shaughnessy N D Spenceley P L Spenceley N J Swindle





**AGENDA  
CENTRAL AREA PLANNING COMMITTEE**

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**WEDNESDAY 31 JULY 2024**

1. **Chairperson's notices**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 8)

To confirm the Minutes of the meeting of the Committee held on 29 May 2024, (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, Other Registrable interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **24/00089/FUL - Land rear of 47 High Street, Maldon, Essex** (Pages 9 - 24)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed, Members' Update to be circulated)\*.

6. **24/00091/FULM AND 24/00092/LBC - East Essex Adult Community College, The Friary, Carmelite Way, Maldon** (Pages 25 - 60)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed, Members' Update to be circulated)\*.

7. **TPO 02/24 - Land adjacent Myrtle Cottage, Lock Hill, Heybridge Basin, Essex** (Pages 61 - 66)

To consider the report of the Assistant Director: Planning and Implementation, (copy enclosed, Members' Update to be circulated)\*.

8. **Any other items of business that the Chairperson of the Committee decides are urgent**

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**Note:**

1. The Council operates a facility for public participation. This will operate only in relation to the consideration and determination of planning applications under Agenda Item Nos. 5-6.
2. The Committee may consider representation from one objector, one supporter, a Parish / Town Council representative, and the applicant / agent. Please note that the opportunity to participate is afforded only to those having previously made written representation.
3. Anyone wishing to participate must register by completing [the online form](#) no later than noon on the working day before the Committee meeting.
4. For further information please see the Council's website – [www.maldon.gov.uk/committees](http://www.maldon.gov.uk/committees)

\* Please note the list of related Background Papers attached to this agenda.

**NOTICES****Recording of Meeting**

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

**Fire**

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**Health and Safety**

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**Closed-Circuit Televisions (CCTV)**

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**Lift**

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## **BACKGROUND PAPERS**

The Background Papers listed below have been relied upon in the preparation of this report:

1. The current planning applications under consideration and related correspondence.
2. All third party representations and consultation replies received.
3. The following Statutory Plans and Supplementary Planning Guidance, together with relevant Government legislation, Circulars, Advice, Orders, Directions and Guidance:

### **Development Plans**

- Maldon District Local Development Plan approved by the Secretary of State 21 July 2017
- Burnham-On-Crouch Neighbourhood Development Plan (2017)

### **Legislation**

- The Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- The Planning and Compensation Act 1991
- The Planning and Compulsory Purchase Act 2004 (as amended)
- The Planning Act 2008
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regs 2007
- The Town and Country Planning (Environmental Impact Assessment) Regs 2011
- Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)
- Growth and Infrastructure Act 2013
- Housing and Planning Act 2016
- Neighbourhood Planning Act 2017
- The Town and Country Planning (Brownfield Land Register) Regulations 2017

### **Supplementary Planning Guidance and Other Advice**

- i) Government policy and guidance
  - National Planning Policy Framework (NPPF) - 2018
  - Planning Practice Guidance (PPG)
  - Planning policy for Traveller sites - 2015
  - Relevant government circulars
  - Relevant Ministerial Statements (as referred to in the report)
  - Essex and South Suffolk Shoreline Management Plan – October 2010

## Supplementary Planning Guidance and Other Advice (continued)

### ii) Essex County Council

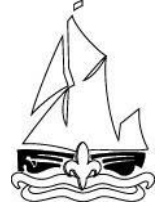
- Essex Design Guide 1997 (Note: superseded by Maldon District Design Guide 2018)
- Essex and Southend on Sea Waste Local Plan 2017
- Essex Minerals Local Plan 2014

### iii) Maldon District Council

- Five Year Housing Land Supply Statement 2017 / 18
- Maldon District Design Guide – 2017
- Maldon and Heybridge Central Area Masterplan - 2017
- Infrastructure Delivery Plan (All versions, including update in Council's Hearing Statement)
- Infrastructure Phasing Plan (January 2015 and January 2017 update for Examination)
- North Heybridge Garden Suburb Strategic Masterplan Framework - 2014
- South Maldon Garden Suburb Strategic Masterplan Framework – 2014 (adapted as Supplementary Planning Document (SPD) 2018)
- Vehicle Parking Standards SPD - 2018
- Renewable and Low Carbon Technologies SPD – 2018
- Maldon District Specialist Housing SPD – 2018
- Affordable Housing and Viability SPD – 2018
- Accessibility to Buildings SPD – December 2006
- Children's Play Spaces SPD – March 2006
- Sadd's Wharf SPD – September 2007
- Heybridge Basin Timber Yard SPD – February 2007
- Developer Contributions Guide SPD - 2010
- Heybridge Basin Village Design Statement – 2007
- Wickham Bishops Village Design Statement – 2011
- Woodham Walter Village Design Statement – 2011
- Althorne Village Design Statement
- Woodham Walter Village Design Statement
- Various Conservation Area Appraisals

All Background Papers are available for inspection at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL during normal office hours.

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**MINUTES of  
CENTRAL AREA PLANNING COMMITTEE  
29 MAY 2024**

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**PRESENT**

Chairperson	Councillor J Driver
Vice-Chairperson	Councillor J C Stilts
Councillors	S J Burwood, K M H Lagan, A M Lay, N R Miller, N G F Shaughnessy, N D Spenceley, P L Spenceley and N J Swindle

**83. CHAIRPERSON'S NOTICES**

The Chairperson welcomed everyone to the meeting and went through some general housekeeping arrangements for the meeting.

**84. APOLOGIES FOR ABSENCE**

There were none.

**85. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 22 November 2023 be approved and confirmed.

**86. DISCLOSURE OF INTEREST**

The Chairperson declared that Members of the Committee had the required dispensation from the Monitoring Officer regarding agenda item 5. 24/00191/FUL - Galleon Play Site, The Promenade Park, Park Drive, Maldon, due to this being a Council application.

87. **24/00191/FUL - GALLEON PLAY SITE, THE PROMENADE PARK, PARK DRIVE, MALDON**

<b>Application Number</b>	<b>24/00191/FUL</b>
<b>Location</b>	Galleon Play Site, The Promenade Park, Park Drive, Maldon
<b>Proposal</b>	Installation of play equipment to replace existing Galleon ship
<b>Applicant</b>	Maldon District Council
<b>Agent</b>	Mr Paul Calder – Real8 Group
<b>Target Decision Date</b>	31 May 2024
<b>Case Officer</b>	Hayley Sadler
<b>Parish</b>	<b>MALDON EAST</b>
<b>Reason for Referral to the Committee / Council</b>	Council Owned Land

Following the Officer's presentation, the Chairperson opened the floor for debate.

A brief debate ensued where Members discussed the application and queried if Officers were aware of what would happen to the old parts of the current galleon when it is demolished. Officers confirmed they did not know as this wasn't a planning consideration.

Councillor N G F Shaughnessy requested that it be minuted that the Council should try to salvage some of the parts of the old galleon to possibly reuse in other parks in the area.

Councillor J Driver proposed to approve the application in accordance with the Officers recommendation. This was duly seconded and when put to the Committee this was agreed by assent.

**RESOLVED** that the application be **APPROVED** subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans and documents as shown on the decision notice.
- 3 The materials used in the development hereby approved shall be as set out within the supporting document submitted with the application, on 01.03.2024.
- 4 No means of external illumination of the development hereby approved shall be installed unless otherwise agreed in writing by the Local Planning Authority.
- 5 All mitigation and biodiversity enhancements measures and/or works shall be carried out in accordance with the details contained in the Low impact EclA (Hybrid Ecology, February 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

There being no other items of business the Chairperson closed the meeting at 7.43 pm.

J DRIVER  
CHAIRPERSON





**REPORT of  
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

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to  
**CENTRAL AREA PLANNING COMMITTEE  
31 JULY 2024**

<b>Application Number</b>	<b>24/00089/FUL</b>
<b>Location</b>	Land rear of 47 High Street, Maldon, Essex.
<b>Proposal</b>	Demolition of an existing outbuilding and construction of a 1 and ½ storey 1 bedroom dwelling.
<b>Applicant</b>	Bowkett – Ribow Properties Ltd.
<b>Agent</b>	Ms Annabel Brown – Annabel Brown Architect
<b>Target Decision Date</b>	02.08.2024
<b>Case Officer</b>	Juliet Kirkaldy
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In by Councillor K Jennings – Policies D1 and H4.

1. **RECOMMENDATION**

**REFUSE** for the reasons as detailed in Section 8 of this report.

2. **SITE MAP**

Please see below.

**24/00089/FUL**  
**Land rear of 47 High Street, Maldon**



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 Maldon District Council 100018588 2014

  
 MALDON DISTRICT COUNCIL

[www.maldon.gov.uk](http://www.maldon.gov.uk)

Scale:	1:500
Organisation:	Maldon District Council
Department:	Department
Comments:	North Western Area
Date:	11/06/2024
MSA Number:	100018588

### **3. SUMMARY**

#### **3.1 Site Description**

- 3.1.1 The application site is located on the southern side of Bull Lane, to the rear (north) of No.47 High Street within the defined settlement boundary for Maldon. The site measures 0.01 hectares and comprises of an existing shed/store building that is proposed to be demolished. It is a long and narrow site.
- 3.1.2 The site is situated within the designated Conservation area. There are numerous heritage assets to the south of the site, fronting onto the High Street. No.47 High Street is Grade II listed.
- 3.1.3 The northern side of Bull Lane is characterised by residential development. To the southern side is predominately service access into the rear of the commercial/business units located along the High Street. Some of these commercial/business units have residential flat accommodation above. To the east of the site is the Town Hall and to the west is Salero Lounge.
- 3.1.3 The site is situated within Flood Zone 1 (Low Risk of Flooding).

#### **3.2 Proposal**

- 3.2.1 Planning permission is sought for the demolition of an existing outbuilding and the construction of a 1 ½ storey 1 bedroom dwelling.
- 3.2.3 The existing shed/store outbuilding which is proposed to be demolished has a footprint of 39sqm. The proposed dwelling would be set back from the highway (Bull Lane) by approximately 13.8 metres. It would have a depth of 11 metres and a width of 4.1 metres. It would have a gambrel roof form that would have an overall height of 6.6 metres.
- 3.2.4 An area (8sqm) of private amenity space is proposed to the front of the dwelling (facing towards Bull Lane) and to the rear of the proposed dwelling (7.5sqm) facing rear of 47 High Street. There is 1 car parking space proposed.
- 3.2.5 There is an existing stairwell providing access into first floor accommodation of 47 High Street which is proposed to be modified from a straight run to a 90 degree turning corner to facilitate the siting of the proposed dwelling and associated amenity space.
- 3.2.6 The proposed entrance into the dwelling is on the northern front elevation. Full height glazing is proposed on this elevation. The eastern side elevation would be a blank flank wall. On the western side elevation, a single window is proposed at ground floor level providing light and ventilation into the kitchen. On the first-floor elevation there are two single windows proposed providing light and ventilation for the bedroom accommodation and kitchen area. On the rear southern elevation full height glazing is proposed with patio doors on the ground floor providing access into the amenity space. A single window is proposed at ground floor providing light and ventilation for the downstairs bathroom. On the eastern roof slope there are roof lights proposed providing light and ventilation for the bedroom and stairwell.
- 3.2.8 The materials proposed for the dwelling are clay roof tile, timber cladding to the first-floor facades and a brick walled base.

### **3.3 Conclusion**

3.3.1 The proposed development would result in inappropriate backland development resulting in a cramped, contrived development out of keeping with its surroundings to the detriment of the character and appearance of the area. It would not provide an adequate quality of life for occupiers as a result of the lack of sufficient amenity space of an adequate quality and resultant poor outlook and natural light. In the absence of a completed legal agreement pursuant to Section 106 (S106) of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has not been secured. Therefore, the proposal would have an adverse impact on European designated nature conservation sites.

3.3.2 It is therefore recommended that planning permission is refused.

## **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

### **4.1 National Planning Policy Framework including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 11-14 Presumption in favour of sustainable development
- 38 Decision making
- 47-50 Determining applications.
- 55-58 Planning conditions and obligations
- 82-84 Rural housing
- 108-111 Promoting sustainable transport.
- 123-127 Making effective use of land.
- 128-130 Achieving appropriate densities.
- 131-141 Achieving well designed and beautiful places.
- 157-175 Meeting the challenge of climate change, flooding and coastal change.
- 180-194 Conserving the natural environment.
- 189- 208 Conserving the historic environment

### **4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S2 Strategic Growth
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure Services

- I2 Health and Wellbeing

#### **4.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Car Parking Standards
- Essex Design Guide

### **5. MAIN CONSIDERATIONS**

#### **5.1 Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan is the approved Local Development Plan (LDP).
- 5.1.2 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk area, the historic environment, local infrastructure and services, character and appearance, and minimising need to travel.
- 5.1.3 The site is situated within the defined settlement boundary of Maldon, one of the main settlements within the District as detailed within policy S8 of the LDP, where the erection of a dwelling is acceptable in principle.
- 5.1.4 The acceptability of the proposal against policies and all other relevant material planning considerations is assessed below.

#### **Five Year Housing Land Supply**

- 5.1.5 As per Paragraph 75 of the NPPF, the Council as the Local Planning Authority (LPA) for the Maldon District should "monitor their deliverable land supply against their housing requirements, as set out in adopted strategic policies". As the LDP is more than five years old, paragraph 77 requires LPAs to "identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply". To this end, Maldon District Council prepares and publishes a 5 Year Housing Land Availability Report, annually, following the completion of the development monitoring activities associated with the LDP 2014-2029's plan monitoring period of 1 April to 31 March.
- 5.1.6 On 28 May 2024, the Council confirmed, through approval of its officers report and supporting evidence, that it can demonstrate a supply of specific, deliverable sites sufficient to provide for 6.3 years' worth of housing against the Councils identified housing requirements. The published figure for the year 23/24 was 6.35 However, it should be noted that this is not a ceiling to development as the Council is required to approve housing development in a sustainable manner, having regard to the government's drive to meet housing demand, where any identified harm caused by a development is outweighed by the benefits of the scheme and any other material considerations. In addition, maintaining a balance of delivery of housing on the

ground, and approval of new permissions, is necessary for the Local Planning Authority to demonstrate that it is being consistent with national policy.

#### Housing Provision and Mix

- 5.1.7 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District as well as sub areas across the District. The LHNA is wholly compliant with the latest NPPF (2023) and up to date Planning Practice Guidance (PPG) and provides the Council with a clear understanding of the local housing need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self build.
- 5.1.8 The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for three bed dwellings; specifically, 10% one bedrooms, 25-35% two bedrooms, 40-50% three bedrooms and 15-25% for 4+ bedroom market dwellings.
- 5.1.9 Although the proposal for a one bedroom dwelling would support the need for one bedroom dwellings in the District, this is a nominal contribution and would not contribute towards the Districts biggest requirement for three bedroom dwellings. The housing mix proposed therefore, does not weigh in favour of the application.

#### Sustainable Development

- 5.1.10 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

#### Environmental Dimension

- 5.1.11 Accessibility is a key component of the environmental dimension of sustainable development. Policy T1 aims to secure the provision of sustainable transport within the District and Policy T2 aims to create and maintain an accessible environment.
- 5.1.12 The site is within the settlement of Maldon which is classified as a 'main settlement' within the District as detailed within policy S8 of the LDP. The main settlements are those with a range of services and opportunities for employment, retail and education. They serve a wide catchment area and contain good public transport links. The occupiers of the site would have access to a good range of services and facilities by means other than the private car. The site is located close to the town centre and walking distance of the Leisure Quarter of the Maldon Central Area (which includes Promenade Park) and there are bus stops within the vicinity of the site. The occupiers of the site would also have access to local primary and secondary schools. This good level of accessibility weighs significantly in favour of the proposal.
- 5.1.13 The other elements of the environmental dimension of sustainable development (which would include the impact on the character and appearance of the area, heritage assets, nature conservation, residential amenity and the quality of life for the occupiers of the proposed dwelling) are discussed below.

### Social Dimension

- 5.1.14 The development would contribute towards the supply of housing within the District. This matter weighs in favour of the proposal but is limited as only one additional dwelling is proposed.
- 5.1.15 As discussed above, the proposed one bedroom unit would contribute positively to the identified housing need and be responsive to local circumstances, which weighs in favour of the proposal. However, the social benefits of the residential development proposed would not be significant as only one dwelling is proposed.
- 5.1.16 It is considered that the proposal would have a limited positive impact in regarding to housing supply.

### Economic Dimension

- 5.1.17 The development would make a positive contribution to the local economy through the construction of the dwelling and additional custom for existing businesses, however, as only one dwelling is proposed, this contribution would be limited.

## **5.2 Design and Impact on the Character of the Area**

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. Policies D1 and H4 of the LDP and the Maldon District Design Guide (2017) (MDDG) are relevant in this respect.
- 5.2.2 The application site is located in a 'backland' position to the rear of the High Street and is generally characterised as a service yard for the commercial/business uses. Given this context, the proposal for a residential dwelling in this location would appear as an unexpected and an incongruous feature.
- 5.2.3 Despite its 'backland' position, the dwelling proposed would be set back 13.8 metres from Bull Lane and therefore would be highly visible from the public realm. The existing building, proposed to be demolished, is an unassuming outbuilding. The proposed dwelling would appear as a more dominant feature within the street scene.
- 5.2.4 The building would be in close proximity to the boundaries of the site. It would abut the eastern boundary and adjoining building of the neighbouring site and would be situated 1.3 metres from the western boundary. The existing neighbouring buildings to the south 47 High Street (four storey) and to the west (Salero Lounge) would appear overbearing and oppressive particularly given the close proximity to the proposed dwelling.
- 5.2.5 Given the shape and size of the application site, its narrow and long form and the 'backland' context of the site, it is considered that the building would appear cramped, contrived and out of keeping with its surroundings to the detriment of the character and appearance of the area.
- 5.2.6 The materials proposed would be a clay tile roof, timber cladding to the 1<sup>st</sup> floor facades and a brick walled base. The submitted Design and Access Statement states

that, *'the style and character we have proposed has taken inspiration from nearby buildings such as the Church Walk cottages'*. The materials proposed would be compatible with the character and appearance of the surrounding area therefore no objections are raised in this regard.

#### Impact on Heritage Assets

- 5.2.7 Section's 72(1) and 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area and listed buildings. Policy D3 of the approved Maldon District LDP is similarly relevant with respect to preserving or enhancing of the special character, appearance, setting and any features and fabric of architectural or historic interest if its heritage assets. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.2.8 The site is situated within the designated Conservation area and adjacent to Listed buildings, including 47 High Street which is Grade II Listed.
- 5.2.9 The application is supported by a Heritage Statement which states that, *'The rear of 47 High Street is used as a service area, it has industrial, utilitarian steps used to access the flats, as can be seen from the massing model and existing drawings, the site is a narrow, long plot with a low quality shed/store building. Our proposal seeks to improve the overall feel and character of this plot with the removal of the shed building and in its place the building of a small, residential dwelling. Our design carefully considers the complex nature of the rear of 47 High Street, with a mix of roofscapes, materials and uses (mainly as a service area) and responds with an architectural solution that improves the feeling and architectural value of this plot'*.
- 5.2.10 The Specialist – Conservation and Heritage has been consulted and commented that, *'The proposal would require the demolition of a ramshackle outbuilding which is of no architectural interest. It is proposed to replace this with a 1 ½ storey building which would have walls of brick and weatherboarding and a half-hipped gambrel roof clad in clay tiles. The gambrel roof form would reflect that found on other historic and modern buildings to the rear of the High Street such as Spindles, Church Lane, to the west of the application site. The use of traditional natural materials would complement the surroundings. The building would obscure some views of the east flank windows to the rear hall of No. 45 (now the Solero Lounge), but these windows would remain visible from other angles. No harm would be caused to the setting of No. 47. A modern external flight of stairs at the back of No. 47 would need to be realigned, which would cause no harm'*.
- 5.2.11 The Specialist – Conservation and Heritage has raised no objection to the proposal subject to conditions relating to materials, brickwork laid in Flemish bond and details on materials, finish and detailed of all external doors and windows.
- 5.2.12 The Archaeology Officer has commented that, *'the proposed development is sited in an area of know archaeological potential. It is sited within Maldon's historic core.'* If planning permission were to be granted, a condition could be imposed relating to a programme of archaeological investigation.
- 5.2.13 Therefore, in terms of impact on heritage assets the proposal would accord with the NPPF and policies D1, H4 and D3 of the LDP.

#### Summary



5.2.14 Overall, the proposed development given its backland context would appear cramped, contrived and out of keeping with its surroundings to the detriment of the character and appearance of the area. The proposal has therefore been found contrary to Policies S1, S8, D1 and H4 of the Maldon District LDP (2017), the MDDG (2017), and the policies and guidance in the NPPF (2021).

### **5.3 Impact on Residential Amenity**

5.3.1 The basis of Policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

5.3.2 The site is bordered by Salero Lounge (café and restaurant) approximately 3.4 metres to the west, and the barbers and flat above (47 High Street) approximately 7.5 metres to the south and Aesthetics of Essex adjoining the eastern boundary.

5.3.3 No objections have been received from neighbouring properties.

5.3.4 The proposed dwelling would be subordinate in height to No.47 the High Street and the adjacent Salero Lounge. There are three single windows proposed on the west elevation of the dwelling facing Salero Lounge. The single window on ground floor would provide light and ventilation for the kitchen. The two single first floor windows would provide light and ventilation for the bedroom and the void above the kitchen/diner. The eastern elevation would be a blank flank wall. On the rear southern elevation (facing rear elevation of 47 High Street), a full height window is proposed with louvre exterior at first floor. This would serve the living room and bedroom. Although the louvre exterior would provide privacy to an extent, there is concern that given the proximity to the rear elevation of 47 High Street (less than 8 metres) this would still result in a loss of privacy to occupiers of the first floor flat above 47 High Street with windows directly facing rear elevation of the proposed dwelling.

5.3.5 Given the design and layout of the proposal, there is concern that the proposal would give rise to a detrimental impact on neighbouring amenity in terms of loss of privacy. The proposal therefore conflicts with policy D1 of the LDP.

### **5.4 Access, Parking and Highway Safety**

5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.4.2 The Council's adopted Vehicle Parking Standards (VPS) Supplementary Planning Document (SPD) contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which encourages the reduction in the reliance on the car and promotes methods of sustainable development.

5.4.3 The proposal would provide for a 1no. bedroom dwelling. In accordance with the Council's Parking Standards, a minimum of 1 car parking space would be required. The submitted Design and Access Statement states that, *'the access remains the*

*same as existing, currently the site can accommodate 1 parked car, but due to its narrow but long nature it can accommodate multiple cars if they were to block each other in. Due to this technical parking accommodation of 1 car is remaining the same.*

- 5.4.4 The proposal has been reviewed by the Highways Authority and they have commented that, *'the site is accessed via Bull Lane which is a private road, and there are no proposed alterations to the existing access arrangements to the local highway network'*. They have raised no objection subject to conditions relating to provision of cycle parking and a travel information pack. A further condition could be imposed relating to the provision of an electric car charging point if planning permission were to be granted.
- 5.4.5 During the Officer site visit it was noted that a vehicle was parked within the site. It is not clear if this was in association with the existing commercial/business use on the High Street or the residential flat accommodation above. However, it is not clear if alternative provision would be made available. It is noted that there is access to nearby public car parks within the vicinity of the site.
- 5.4.6 Subject to compliance with the above conditions, the proposed development would accord with NPPF and policies D1 and T2 of the LDP in terms of highway safety and accessibility.

## **5.5 Private Amenity Space and Living Conditions**

Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely a minimum of 50m<sup>2</sup> of private amenity space for dwellings with 1 to 2 no. bedrooms.

- 5.5.1 The MDDG SPD states, *'private gardens should contribute towards the leafy, green character of the local area. They provide a function that may not be interchangeable with the offer of public open space. Additionally, they may provide residents with the opportunity to play, grow food and encourage wildlife.'* It further refers to the design principles for residential outdoor amenity and states, *'amenity space is located to allow for maximum daylight/sunlight'*.
- 5.5.2 The application proposes 7.5sqm of rear amenity space provision. This falls significantly below the minimum standard specified in the MDDG. Given the design and layout of the proposal and amenity space, it would not be a private area and would be poorly integrated. It would be overlooked by the adjacent flats and users of the stair well to the rear of 47 High Street. There is also concern that there would be limited daylight/sunlight within the amenity space due to proximity and resultant overshadowing from the adjacent four storey buildings and proposal to enclose the amenity space with 2 metre close boarded fencing (a recommendation of noise assessment as discussed below).
- 5.5.3 It is noted from the photographs submitted with the Design and Access Statement that there is an outside toilet facility approximately 1 metre to the south west of the proposed amenity space. Presumably this is for the occupiers of the commercial/business use on the High Street. There is concern regarding the proximity of this facility and the resultant poor relationship with the proposed amenity space.

- 5.5.4 The Nationally Described Space Standards states a minimum gross internal floor area for a 1 bedroom, 2 person, 2 storey dwelling of 58sqm. The proposed dwelling would have a gross internal floor area of 72sqm and therefore would accord with the minimum standard. However, there is concern regarding poor outlook for prospective occupiers of the dwelling, particularly given the proximity and height of the neighbouring buildings and the proposal to enclose the rear amenity space with 2 metre close boarded fencing, less than 2 metres from the rear elevation. This would reduce light into the living area.
- 5.5.5 There would be limited provision of amenity space, significantly below the 50sqm minimum recommended in the MDDG (2017) and the 'garden area' proposed would not be private. There would also be a poor outlook for prospective occupiers as it would be oppressive and overbearing.
- 5.5.6 The Environmental Health Officer initially submitted a holding objection to the application as the applicant had not provided any details as to how they proposed to ensure that prospective occupants of the dwelling are protected from any potential noise from the adjacent commercial premises. However, during the course of the application a noise impact assessment (prepared by Infinity Acoustics) was submitted. There is a barbers located within no.47 High Street and Solero Lounge (restaurant/café) located to the west of the site. There are large single glazed windows from Solero Lounge facing onto the site and associated commercial and mechanical plant noise. The noise assessment concludes that, *'as a result on the noise assessment, a sound insulation scheme and mitigation measures have been defined to ensure that all the criteria outlined in BS8233:2014 can be achieved even when considering the loudest measured 1 hour period or the BS4142 rating noise level'*. The mitigation measures include a 2 metre closed board timber fence to be installed around the amenity area; an alternative ventilation system to ensure noise ingress can be reduced whilst vents are open and operating and internal noise criteria achieved and sound reduction glazing. If the application were to be recommended for approval a condition could be imposed requiring sound insulation works to be installed and retained thereafter to protect amenity of future residents.
- 5.5.7 It is not considered that the occupiers of the dwelling proposed would be provided with adequate quality of life, contrary to Policy D1 of the approved Maldon District LDP.

## **5.6 Trees and Landscaping**

- 5.6.1 Policy S1 of the LDP states that decision making should conserve and enhance the natural environment. Policy D1 of the LDP advises that all development must respect and enhance the character and local context and make a positive contribution in terms of landscape, setting, townscape setting and skylines and in terms of the natural environment.
- 5.6.1 The NPPF states in paragraph 136, *'Planning policies and decisions should ensure that opportunities are taken to incorporate trees elsewhere in developments and that existing trees are retained wherever possible.'*
- 5.6.2 There are 4 (Sycamore) trees to the front (north of the dwelling) proposed to be retained.
- 5.6.3 An Arboricultural Impact Assessment (prepared by Tree Planning Solutions February 2024) has been submitted as supporting documentation. The AIA concludes that, *'no trees are to be removed to facilitate construction of the proposal or access to the site'*. It further states that, *'Visual tree amenity value of the tree features is limited, the*

*trees cannot be seen clearly from the publicly maintainable highway or footway, visibility is limited to gaps within the housing from Bull Lane only, a non-thorough road with infrequent public use. The trees have little arboricultural merit and are considered self-sown specimens grown from neglect of the boundary rather than planted specimens intended for the current context. The local landscape value (screening) is reasonable. The trees provide reasonable screening value, they are large specimens that have previously been managed, the trees reduce the perceptual load of the built form and break the hard roof line of the surrounding hard landscape. The trees are not veteran, ancient, rare or unusual specimens and have little arboricultural merit. The trees can be adequately protected using temporary barriers and ground protection in accordance with BS 5837.'*

- 5.6.4 The Arboricultural Consultant has been consulted and raised no objection to the proposal stating that, *'the trees are classed as category C and no trees have been outlined to be removed to facilitate the construction. The method statement has outlined the use of suitable root pruning methods and hand tool methods. The proposed plans appear to show a footpath within the RPA of T1, T2 and T3 no information has been provided on the installation methods of this footpath within the method statement. Therefore, clarification on what methods is to be used in this installation are required'*. The Arboricultural Consultant has proposed a condition is imposed if the application is to be granted relating to the retention and protection of trees within an Arboricultural Method Statement (AMS).

## **5.7 Impact on European Designated Sites**

- 5.7.1 The site falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the Essex Coast RAMS. The LPA must therefore undertake an HRA and secure a proportionate financial contribution towards the Essex Coast RAMS.
- 5.7.2 The development will result in the net gain of 1 no. dwelling at the site. This falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and strategy advice, an Essex Coast RAMS Habitat Regulation Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment, are listed below:

### HRA Stage 1: Screening Assessment

Test 1 – the significance test

Is the development within the Zol for the Essex Coat RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes, the development is for 1no. dwelling, and therefore the net increase of dwellings at the site is 1no. dwelling.

Test 2 – The integrity test

Is the proposal for 100 houses + (or equivalent)? No.

Is the proposal within or directly adjacent to one of the above European designated sites? No.

5.7.3 As the answer is no, it is advised that, should planning permission be forthcoming, a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the named European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to re-consult on this Appropriate Assessment.

5.7.4 The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £163.86 and thus, the developer contribution should be calculated at this figure.

5.7.5 A unilateral undertaking has not been drafted or signed and thus the necessary financial contribution of £163.86 per dwelling has not been secured and in the absence of a signed legal agreement to secure the aforementioned contribution, the impact of the development may not be able to be mitigated and therefore the proposal fails to accord with the LDP policy N2 accordingly.

## 5.8 Planning Balance

5.8.1 The main benefits of the proposal are considered to be the social benefits associated with the contribution the development would make to the Council's housing land supply. There would also be economic benefits. However, these benefits are limited (as only one dwelling is proposed) and would not outweigh the harm the development would cause in relation to the impact of the development on the character and appearance of the area and quality of life for the occupiers of the proposed dwelling and loss of privacy for neighbouring residential flat.

5.8.2 Therefore, the proposal would not be sustainable development, and the recommendation is refusal.

## 6. ANY RELEVANT SITE HISTORY

- None

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Maldon Town Council	We recommend the refusal of planning permission for following reasons: <ul style="list-style-type: none"> <li>• Due to bulk and scale in an inappropriate location, would result in an incongruous back land development;</li> <li>• Lack of privacy due to close proximity of neighbouring property and lack of amenity space for future occupiers;</li> </ul>	Noted.

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
	<ul style="list-style-type: none"> <li>Noise from neighbouring commercial property;</li> <li>Restricted access to the site.</li> </ul>	

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Essex County Council Highways	No objection subject to conditions relating to provision of cycle parking and a developer travel information pack.	Noted and discussed at Paragraph 5.5 of this report.
Essex County Council Archaeology	No objection subject to conditions relating to archaeological assessment.	Noted and discussed at Paragraph 5.2.12 of this report.

## 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Arboricultural Consultant	No objection subject to condition relating to detail for tree retention and protection in an Arboricultural Method Statement.	Noted.
Environmental Health	<p>Initially submitted an objection stating a noise assessment and suitable scheme of sound insulation is required to be provided.</p> <p>The applicants subsequently provided a noise assessment during course of application. The Environmental Health Officer was reconsulted and raised no objection subject to a condition that the specification of glazing and ventilation system are installed prior to first occupation of the dwelling.</p>	Noted and discussed at Paragraph 5.7 of this report.
Heritage and Conservation Specialist	No objection subject to conditions relating to materials, brickwork to be	Noted.

Name of Internal Consultee	Comment	Officer Response
	laid in Flemish bond, details of windows and doors to be approved prior to installation.	

#### 7.4 Representations received from Interested Parties

7.4.1 No representations have been received.

### 8. PROPOSED REASONS FOR REFUSAL

- 1 The proposed development, as a result of the size and shape of the application site and the 'backland' context of the site, would appear cramped and contrived and out of keeping with its surroundings to the detriment of the character and appearance of the area, contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan and Government guidance as contained within the National Planning Policy Framework.
- 2 The proposed development would not provide an adequate quality of life for the occupiers of the proposed dwelling as a result of a lack of sufficient amenity space of an adequate quality, poor outlook and natural light. This would be contrary to Policies S1, D1 and H4 of the approved Maldon District Local Development Plan and Government guidance as contained within the National Planning Policy Framework.
- 3 The proposed development would result in a loss of privacy for neighbouring residential flats as a result of the design, layout and proximity of the proposed dwelling. This would be contrary to Policies S1, D1 and H4 of the approved Maldon District Local Development Plan and Government guidance as contained within the National Planning Policy Framework.
- 4 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the approved Maldon District Local Development Plan and Government guidance as contained within the National Planning Policy Framework.

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**REPORT of  
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

to  
**CENTRAL AREA PLANNING COMMITTEE  
31 JULY 2024**

<b>Application Number</b>	<b>24/00091/FULM AND 24/00092/LBC</b>
<b>Location</b>	East Essex Adult Community College, The Friary, Carmelite Way, Maldon
<b>Proposal</b>	Residential redevelopment for 22 dwellings comprising conversion of listed building to 7 apartments, demolition of unsympathetic 1960s extension and replacement with 2 townhouses, demolition of the outbuilding along the western boundary wall, construction of two new buildings within the grounds to the south, comprising 7 specialist needs apartments and 6 market sale apartments, hard and soft landscaping and associated parking and infrastructure.
<b>Applicant</b>	Mr Nic Malby - Essex Housing Developments LLP
<b>Agent</b>	Mr Steven Butler - Bidwells
<b>Target Decision Date</b>	02.08.2024
<b>Case Officer</b>	Fiona Bradley
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillors J C Stilts and K Jennings. Reasons D1, D3 and H4. Due to size and scale of the development and that it is in a conservation area and is a heritage asset. Loss of land on a historic site. This site has had a planning application refused before and that was also refused by the inspectorate. We do have a 5 Year land supply. Major Application

**1. RECOMMENDATION**

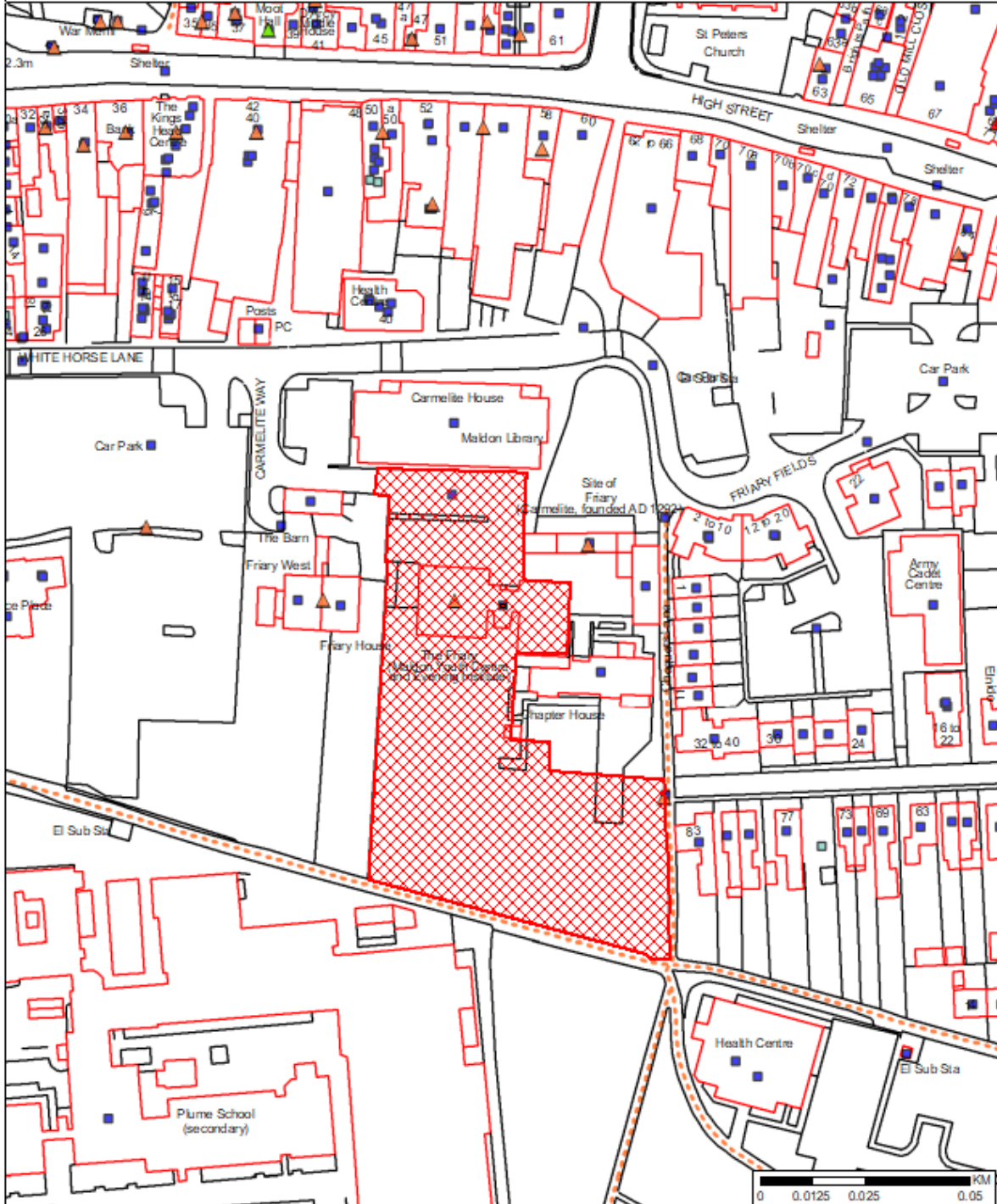
**REFUSE PLANNING PERMISSION** for the reasons as detailed in Section 8 of this report.


**GRANT LISTED BUILDING CONSENT** subject to the conditions as detailed in Section 8 of this report.

**2. SITE MAP**

Please see below.

# The Friary, Carmelite Way, Maldon Central



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	31 May 2024
	Date:	16/07/2024
	MSA Number:	100018588

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

##### Site and surroundings

- 3.1.1 The application site is located on Carmelite Way, in Maldon. It is to the south of Maldon High Street within the Maldon Conservation Area. The site is a broadly L shaped plot, 0.5 hectares in size, and located to the south of Maldon Library. The site area includes Friary East (also referred to as The Friary) and its later 1960s extension along with the Carmelite Car Park. Access into the site is achieved from White Horse Lane and Carmelite Way. Friary East was a private residence until it was purchased by Essex County Council (ECC) in 1946. Friary East has been unoccupied since September 2014 and remains in the ownership of ECC.
- 3.1.2 The site is occupied by a building known as Friary East, which until recently included a 1960s side extension. An historic boundary wall and garden lie to the south of the main building. Friary East and attached walls to the north-west, walls forming the eastern garden boundary and the stable block to the north-east of Friary East were all listed as Grade II in 1971.
- 3.1.3 To the immediate west of the site lies the grounds of Friary West and situated beyond this property is a large car park serving the town centre. Maldon Library and associated parking are situated to the north of the site and to the east the site is bounded by a pre-school facility, also within the landownership of ECC. The southern boundary of the Site comprises a belt of mature trees which abut a public footpath separating Friary East from the grounds of the Plume Academy. There are a number of trees within the Site of varying size and quality.

##### The Proposal

- 3.1.4 The current proposals seek planning permission and listed building consent.
- 3.1.5 Listed Building Consent for the works to Friary East building has already been granted under the appeal (ref. 17/00764/LBC). This element of the proposal remains unchanged and is not included within the scope of this submission. These works have been undertaken. The extent of works proposed under the current Listed Building Consent application relate solely to the proposed demolition of the small outbuilding immediately to the west of Friary East building, because this outbuilding is physically attached to the listed boundary wall. This would bring the extent of all proposals into line with each other.
- 3.1.6 Planning permission is sought for 22 new dwellings comprising the following:
- Proposed conversion and change of use of Friary East into 7no. residential apartments. This part of the scheme remains the same as the details approved under the Listed Building Consent appeal;
  - The proposed demolition of the 1960s extension and replacement with the construction of 2no. townhouses / mews houses;
  - The construction of a 1-2 storey building housing 7no. specialist apartments for people with learning disabilities (referred to as 'learning disabilities block' or 'LD block'). This building would be in the south-eastern corner of the site;
  - The construction of a 2.5 storey apartment block for 6no. market sale dwellings (referred to as 'private for sale block' or 'PFS block'). This building would also be located in the south-eastern corner of the site.

- 3.1.7 Vehicular access to the scheme would be via the existing vehicle entry point on Carmelite Way. The demolition of the 1960s extension would provide access to the rear of Friary East to the south.
- 3.1.8 The scheme incorporates a mix of sizes of accommodation, relevant to the context of the Site's sustainable location. The accommodation of the 22 new dwellings is as follows:
- 2 of these would have 3no. bedrooms,
  - 9 would have 2no. bedrooms, and
  - 11 would have 1no. bedroom.
- 3.1.9 There would be 22 new vehicle parking spaces in the southern part of the site, 2 of which would enable use by disabled users. This provides parking at a ratio of 1:1.
- 3.1.10 The scheme would provide communal garden space for all residents in the main garden, communal space for the LD residents to the rear of the LD block and also small rear private patios for the two mews houses.
- 3.1.11 During the lifetime of the application the applicant has sought to address concerns raised by officers regarding the layout and resultant living conditions of the development in the south eastern corner of the site, the PFS and LD block. This resulted in the LD block being moved to the south to align with the southern (side) elevation of the PFS block). Six car parking spaces were moved from the front of the LD block to the west in the southern part of the site together with an enlarged turning area.
- 3.1.12 The proposed layout is shown below in Figure 1 with annotations to show each building referred to above:

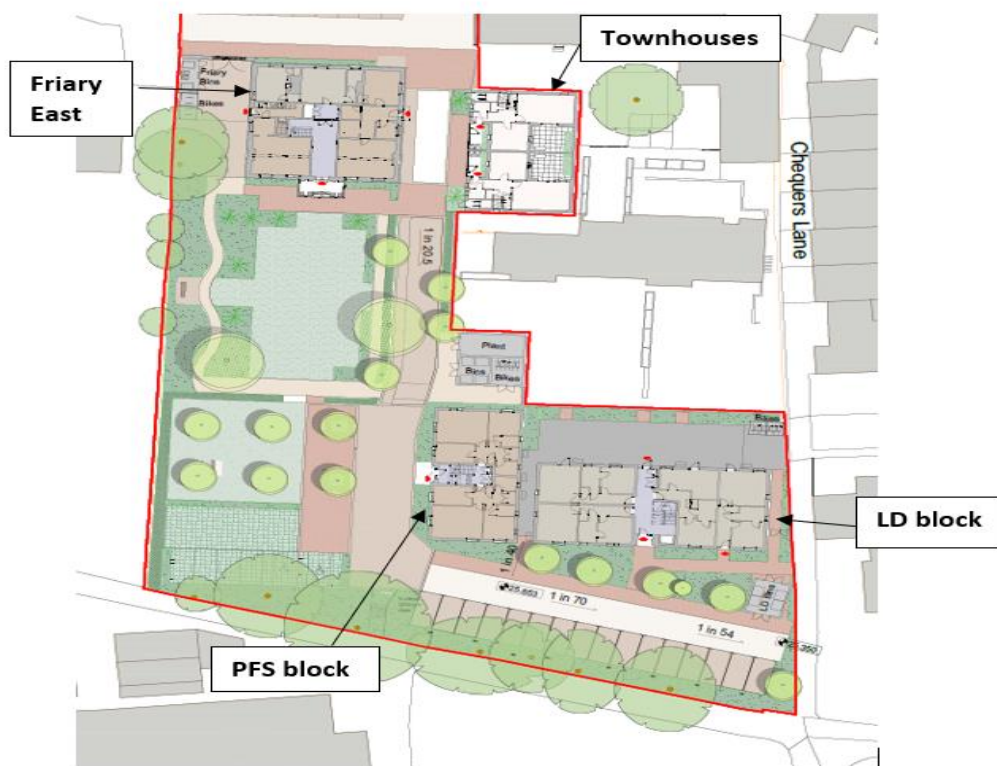


Figure 1 – proposed site layout

### Submitted documents

3.1.13 In addition to the applications' submitted plans, the following documents were submitted with the application:

- Design and Access Statement (Chetwoods)
- Planning Statement (Bidwells)
- Arboricultural Impact Assessment and Method Statement (Place Services)
- Archaeological Desk Based Assessment (Place Services)
- Drainage Strategy (Create Consulting Engineers)
- Ecological Impact Assessment (Place Services)
- Heritage Statement (Turley)
- Landscape Masterplan (Allen Pyke)
- Landscape Strategy (Allen Pyke)
- Transport Statement (PJA)

3.1.14 The revised information submitted in June 2024 included amended plans and the following documents:

- Planning Statement Addendum (Bidwells) June 2024
- Landscape Masterplan (Allen Pyke) 3010-RE-01 Rev.P17
- Landscape Strategy (Allen Pyke) 3010-LA-L-10001 Rev.P06
- Transport Statement (PJA) June 2024
- Arboricultural Impact Assessment and Method Statement (Place Services) 29 May 2024

3.1.15 In addition, a number of Computer-Generated Images (CGIs) were also submitted as supporting information and an updated Surface and Foul Water Drainage Strategy (Revision A) following the receipt of the above revised information.

3.1.16 A further round of public consultation was undertaken following the receipt of the amended plans and documents.

### Background

3.1.17 In 2017 applications for planning permission (ref. 17/00763/FUL) and listed building consent (ref. 17/00764/LBC) were submitted by Essex Housing, Essex County Council for the development of the Site for the following:

*Residential redevelopment for 28 dwellings comprising conversion of listed building to 7 apartments, demolition of unsympathetic 1960s extension and replacement with 2 townhouses, construction of new build development within the grounds to the south comprising 19 apartments, hard and soft landscaping and associated parking and infrastructure.*

3.1.18 The proposals included 28 dwellings comprising:

- Conversion of the Friary building into 7no. residential apartments
- 2no townhouses in the location of the unsympathetic 1960s extension, which was proposed for demolition (referred to as "F1");
- 7no apartments for adults with learning disabilities in a new part-one part-two storey block in the grounds, to the south (referred to as block "F2");
- 12 apartments in a new three-storey block within the grounds, to the south-east (referred to as block "F3").

3.1.19 The site plan below in Figure 2 shows the proposals with the relevant buildings annotated as above:

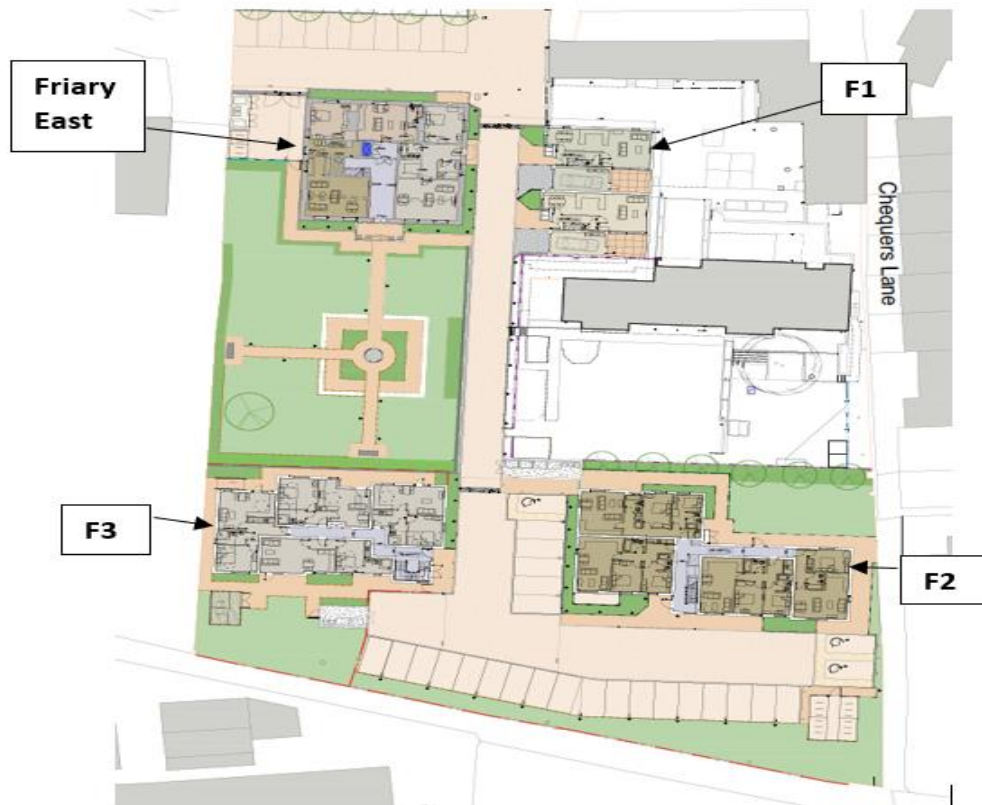


Figure 2 - site layout of 2017 proposals

3.1.20 The applications were refused on 8 March 2019 following a resolution to refuse at Central Planning Committee on 20 February 2019. The planning application was refused for the following reasons:

1. *The proposed development, as a result of its layout, scale, mass, height and bulk, unsympathetic design, loss of important landscaping, and excessive site coverage would have an unacceptable visual impact upon the character and appearance of the site, the setting of the listed building at the site and the Conservation Area. The proposal would be contrived, out of keeping with the prevailing pattern of development and fail to integrate into the surrounding area both physically and visually or achieve a high quality design. Furthermore, the high density of the proposed development does not allow for sufficient amenity space for the two proposed dwellings. The proposal would therefore be contrary to Policies S1, S5, D1, D3 and H4 of the MDLDP and Government advice contained within the NPPF.*

2. *The proposed development would not be served by sufficient car parking of adequate size to comply with the Maldon District Vehicle Parking Standards 2018. Furthermore, the access within the site is considered to be of inadequate width and is therefore likely to cause conflict between vehicles and pedestrians. The proposal would therefore be served by inadequate parking and access arrangements which would have the potential to cause unsafe parking and conditions of unsafe vehicle and pedestrian movements. The proposal is therefore unacceptable and contrary to Policies D1 and T2 of the MDLDP.*

*3. Inadequate provision to secure the delivery of affordable housing to meet the identified need in the locality and address the Council's strategic objectives on affordable housing has been made, contrary to Policies H1 and I1 of the MDLDP and Government advice contained within the NPPF.*

3.1.21 Listed building consent was refused for the following reason:

*The proposed development would involve works to the listed building including demolition of part of the building, which is not considered to be of significant heritage value alone. In the absence of an acceptable scheme for the replacement or mitigation of the demolition works it is considered that the proposed demolition would leave a void area to the side of the listed building that would not enhance or maintain the setting of the listed building. Such an unresolved situation is not outweighed by any wider public benefits derived from the works and it is therefore considered that the proposal is contrary to the guidance contained within the NPPF and policies D1 and D3 of the MDLDP.*

3.1.22 The applications were appealed. The appeal for Listed Building Consent (ref. APP/X1545/Y/19/3236694) was allowed however the appeal for planning permission (ref. APP/X1545/W/19/3236693) was dismissed.

3.1.23 In respect of the planning appeal, the Inspector considered that the development would cause very significant harm to both the character and appearance to the Maldon Conservation Area as a result of the introduction of new blocks F2 and F3 due to the scale, bulk and coverage proposed and site coverage of access and parking areas. The Inspector also considered that the introduction of blocks F2 and F3 would undermine the stature and pre-eminence of the listed building and would therefore fail to preserve the listed building and its setting.

3.1.24 Whilst the scheme would provide public benefits, including securing the building's optimum viable use and the delivery of this form of specialist housing (identified as a significant public benefit by the Inspector), the lack of a formal mechanism to secure the delivery for learning-disabled occupation rather than as open market housing substantially limited the weight that could be attributed to that particular public benefit. The identified heritage harms were therefore not outweighed by the various public benefits of the scheme and the Inspector dismissed the appeal.

3.1.25 The Inspector considered that the scheme was acceptable in respect of:

- Outdoor amenity space provision;
- Access and parking;
- Provision of no affordable housing, based on the viability evidence submitted.

3.1.26 In respect of the allowed listed building consent appeal, the Inspector considered that there would be some limited harm to the historic fabric of Friary East from its subdivision to apartments. But due to the clear public benefits to the setting and significance of the listed building that would arise from the removal of the 1960s extension and the restoration and residential reuse of the building, this harm would be outweighed. The Inspector imposed various pre-commencement conditions to secure the remediation.

## 3.2 Conclusion

3.2.1 The previous appeal decision is a material planning consideration when assessing these applications.

- 3.2.2 With regards to the Listed Building Consent application, which is only for the demolition of an outbuilding to the west of Friary East, no objection is raised, and the application is recommended for approval.
- 3.2.3 With regards to the planning application, it is acknowledged that the applicant has made substantial revisions to the scheme in an effort to address to issues raised in the appeal decision. However, it is considered that the erection of the two blocks of flats (the PFS and LD blocks), the access through the site and the presence of parked cars in the southern part of the garden would result in a moderate degree of less than substantial harm to the setting of Friary East and the Maldon Conservation Area.
- 3.2.4 The PFS and LD blocks, due to their size and siting and the 'backland' context of the site, would appear cramped and contrived and out of keeping with its surroundings to the detriment of the character and appearance of the area. Furthermore, the design of the two blocks is not considered to be high quality, particularly in their context of the setting of the listed building and Maldon Conservation Area.
- 3.2.5 Insufficient information has been submitted to justify the loss of Grade 'A' and 'B' trees, works to trees and tree protection for retained trees. There are also concerns from statutory consultees in regard to insufficient information in regard to surface water drainage.
- 3.2.6 The proposal would provide a significant social benefit through the provision of private living accommodation for people with learning disabilities for which there is a clear need.
- 3.2.7 A further benefit of the scheme is that it would secure the optimum viable use of the listed building through its conversion to residential use.
- 3.2.8 Having weighed all the above matters in the balance and taking into account the development's harmful effect on the character and appearance of the site, its impact on the conservation area and the listed building, it is considered that the benefits arising from the development would not outweigh the harm caused. Accordingly, the planning application is recommended for refusal.

#### **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

##### **4.1 National Planning Policy Framework including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55-58 Planning conditions and obligations
- 60-84 Delivering a sufficient supply of homes
- 85-89 Building a strong, competitive economy
- 90-95 Ensuring the vitality of town centres
- 96-107 Promoting healthy and safe communities
- 108-117 Promoting sustainable transport
- 123-130 Making effective use of land
- 131-141 Achieving well-designed and beautiful places



- 157-179 Meeting the challenge of climate change, flooding and coastal change
- 180-194 Conserving and enhancing the natural environment
- 195-214 Conserving and enhancing the historic environment

#### 4.2 **Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S2 Strategic Growth
- S5 The Maldon and Heybridge Central Area
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D5 Flood Risk
- E1 Employment
- H1 Affordable Housing
- H2 Housing Mix
- H4 Effective Use of Land
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- I1 Infrastructure and Services
- I2 Health and Wellbeing

#### 4.3 **Relevant Planning Guidance / Documents:**

- Planning Practice Guidance (PPG)
- Maldon District Design Guide (2017) (MDDG) Supplementary Planning Document (SPD)
- Maldon District Vehicle Parking Standards SPD
- Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) SPD
- Specialist Needs Housing SPD

## 5. **MAIN CONSIDERATIONS**

### 5.1 **Principle of Development**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)), and paragraph 47 of the National Planning Policy Framework (NPPF) require planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises of the approved Maldon District Local Plan 2014-2029 (The Local Development Plan or LDP).

- 5.1.2 LDP Policy S1 states that *“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF”* and applies 14 key principles in policy and decision making set out in the Policy. This includes principle 2 *“Delivering a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations”*.
- 5.1.3 To deliver the economic and residential growth in the District whilst protecting and enhancing the area’s natural, built and historic environment, LDP Policy S2 seeks to focus development on existing settlements subject to their role, accessibility and constraints.
- 5.1.4 LDP Policy S8 flows from Policy S2 and steers new development towards the existing urban areas. The site is in Maldon, which is identified as a main settlement in Policy S8, where the principle of the proposed development is supported, as was the case for the appeal scheme.
- 5.1.5 On the 28 May 2024, the Council confirmed, through approval of its officers’ report and supporting evidence, that it can demonstrate a supply of specific, deliverable sites sufficient to provide for 6.3 years’ worth of housing against the Council’s identified housing requirements. The published figure for the year 23/24 was 6.35. However, it should be noted that this is not a ceiling to development as the Council is required to approve housing development in a sustainable manner, having regard to the government’s drive to meet housing demand, where any identified harm caused by a development is outweighed by the benefits of the scheme and any other material considerations. In addition, maintaining a balance of delivery of housing on the ground, and approval of new permissions, is necessary for the Local Planning Authority (LPA) to demonstrate that it is being consistent with national policy.

## 5.2 Specialist Housing Provision, Affordable Housing and Housing Mix

### Specialist Housing Provision

- 5.2.1 LDP Policy H3 provides for accommodation for specialist needs and states that Council *“will support and enable the provision of housing to meet specialised needs in the District where this is consistent with the Council’s current strategic requirements”*. Policy H3 is supplemented by the Specialist Needs Housing SPD, which provides further information on how the relevant criteria within Policy H3 should be met.
- 5.2.2 The appeal decision (paragraph. 37) considered the need for the specialist housing and stated that:
- A current identified need for supported independent living accommodation for learning-disabled people to be located specifically in Maldon town centre has not been demonstrated. However, it is clear the appellant, in its statutory adult social care role, has identified a significant general demand across Essex. While this would not be consistent with Policy H3, which requires a clearly identified need for specialist housing that cannot be addressed elsewhere in the district of Maldon, new learning-disabled units would nevertheless amount to a significant wider public benefit in Paragraph 196 terms.*
- 5.2.3 Policy H3 states that *“proposals for specialist needs housing such as homes for... people with disabilities... will be supported”* subject to 8 criteria as discussed below.

**1) There is a clearly identified need that cannot be addressed anywhere else in the District**

5.2.4 This criterion requires there to be a) an unmet need and b) that the need cannot be addressed anywhere else in the District.

5.2.5 In terms of the unmet need, ECC is the relevant statutory agency for people with learning disabilities in the County of Essex. The application includes a letter from Gavin Jones, the Chief Executive of ECC (see Appendix 1 of the Planning Statement) which states that:

- *The Maldon population aged 18-64 predicted to have a learning disability is steadily increasing. Compared with 882 adults in 2020, increasing to 887 by 2030 and 898 by 2040.*
- *There is a comprehensive list of adults currently receiving LD support services from ECC in Maldon District. This comprises 172 adults across a range of types of support.*
- *A number of individuals with LD wanted to be housed in the Maldon District but due to the lack of supply had to move elsewhere. Since 2018, 8 adults from Maldon requiring suitable accommodation to meet their needs have had to be placed in accommodation in other districts. Moving away from family, friends and existing support networks is often a sub optimal outcome.*
- *Four individuals with LD are currently awaiting accommodation in the Maldon District (In addition it is advised by ECC Social Care colleagues that due to an existing lack of supply individuals often don't request Maldon).*
- *There are 21 adults with LD living in residential homes in the Maldon District, and there may be potential for some of these adults to move onto Supported Living at the Friary, subject to completion of a Care Act review.*

5.2.6 It is accepted that the above demonstrates a clear unmet need in the District.

5.2.7 With regard to the second part of the criterion, that the need cannot be met *anywhere else* in the District, the Planning Statement on pages 28 and 29 refers to local and national policies and considers they “*all point to the selection of the Friary. It is surplus public land, being made available specifically for this purpose, in the heart of Maldon town centre, in one of the only locations in the district considered suitable by the CCG for this type of specialist housing accommodation. This scheme is accompanied by a mix of market housing to make the development (and conversion of the Grade II listed building) viable. The Friary is the only site available for this type of accommodation in Maldon district. This is confirmed by MDC's latest publicly available monitoring data which identifies that there have been no applications approved for accommodation for adults with learning disabilities since the adoption of the Maldon District LDP in 2017*”.

5.2.8 At this time, it is apparent that the need has not been met elsewhere in the District. In the absence of any other accommodation for adults with learning disabilities, it would appear that the need cannot be met elsewhere.

**2) The development is located in an area that is sustainable to meet the social as well as housing needs of the intended residents.**

5.2.9 The site is located within a highly sustainable location, within walking distance from the town centre and the range of facilities and services on offer there, including public transport.

**3) It will not lead to a concentration of similar uses that would be detrimental to the character and function of an area and/or residential amenity**

5.2.10 There is no other residential accommodation of this type in Maldon town centre, therefore there would be no concentration of similar uses.

**4) It would not detrimentally impact on the capacity of public services, including health and social care**

5.2.11 The proposal would provide accommodation for people with learning disabilities who currently reside in the District, therefore resulting in no increased impact on the capacity of public services. Furthermore, no objections from statutory consultees have been received in response to the application on this basis.

**5) It is in close proximity to everyday services, preferably connected by safe and suitable walking / cycling routes or public transport appropriate for the intended occupier**

5.2.12 As above, the site is within a short walk of the town centre and public transport.

**6) It can be demonstrated that the development is designed and managed to provide the most appropriate types and levels of support to its target resident**

5.2.13 ECC, the applicant, is the statutory provider of this type of accommodation and a track record of providing it elsewhere in the County.

5.2.14 The development includes an apartment which would provide a shared facility for the LD residents and act as a base for the onsite warden who would be able to provide any necessary support to the LD residents. The development includes a secure outdoor space to the rear of the LD block for use by the residents which would cater to their needs.

**7) It can be demonstrated that revenue funding can be secured to maintain the long-term viability of the scheme**

5.2.15 Referring again to the letter from Gavin Jones, the Chief Executive of ECC, which refers to ECC's Adult Social Care Business Plan 2021-2025. The Business Plan states that ECC's annual budget is set to grow by 19% (or by approximately £22m a year over the period to 2024). The 2022/23 budget for Learning Disabilities alone is approximately £228m, within the total Adult Social Care budget of £390m. ECC's ambition over the Business Plan is to improve access to housing, employment and meaningful opportunities. Delivery and ongoing support for this type of specialist accommodation is a major part of ECC's annual budget, thereby maintaining viability in the long term.

**8) The scheme is supported by the relevant statutory agencies**

5.2.16 In this case, the applicant is the relevant statutory agency.

5.2.17 In summary, the information provided in support of the application demonstrates accordance with Policy H3.

5.2.18 Strategic Housing were consulted on the application and have advised that the information demonstrating the need for the units has been provided which supports the provision of such accommodation to meet the identified need of people with learning disabilities within the District. Strategic Housing are satisfied that such

provision will enable prospective occupiers to receive support while living independently within the community in the District.

- 5.2.19 The appeal decision, whilst acknowledging the significant wider public benefit of the LD housing, noted at paragraph. 38 that there was no formal mechanism, such as a legal agreement, to secure delivery of the LD units as LD units and not as open market housing. The Inspector found this lack of certainty to be inconsistent with the Specialist Needs Housing SPD which seeks to retain the relevant units as specialist housing in perpetuity. As such, the Inspector limited the weight given to providing the LD units.
- 5.2.20 To address the above matter, the applicant now proposes an undertaking equivalent to that of a Section 106 agreement, in the form of a Deed of Covenant (see Appendix 2 of the submitted Planning Statement). It is necessary for the legal undertaking to take the form of a Deed of Covenant because the scheme would be unable to secure grant funding if it were to take the form of a Section 106 agreement, which would negatively affect scheme viability. The wording of the Deed of Covenant has been agreed by the Council's legal officers and is considered to meet the requirements of the Specialist Needs Housing SPD in securing the LD units in perpetuity.

#### Affordable Housing

- 5.2.21 Policy H1 of the LDP states that all housing developments of more than 10 units or 1,000sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing. The application site falls under the sub-area of 'Maldon Central and South' and therefore the requirement for affordable housing contribution would be 40%. However, no affordable housing is proposed as part of the scheme.
- 5.2.22 The application is supported by an Assessment of the Economic Viability of the Proposed Scheme ('the Viability Assessment') (Bidwells, 24 January 2024) of the proposed scheme. The Viability Assessment finds that assuming the provision of policy compliant affordable housing (following the application of the Vacant Building Credit), the proposed scheme would generate a residual land value of negative £109,650. This indicates that the scheme would be unviable with this level of affordable housing provision, as a developer would be unable to generate their target level of required profit, even if they received the land at zero cost. The Viability Assessment concludes that that in providing zero affordable housing the scheme satisfies the tests in planning policy regarding viability this should therefore be agreed as the appropriate affordable housing provision.
- 5.2.23 A similar case was put forward for the appeal scheme where the Inspector noted at para. 33 that "*While the provision of block F2 as learning-disabled units was generally agreed to make the development 'more unviable', the evidence nevertheless demonstrates that the development as a whole would remain unviable for affordable housing contribution even if all the units were to be open market dwellings*". The Inspector concluded at paragraph. 35 that were the appeal to be allowed "*a relaxation of the requirements of Policy H1 to zero affordable housing provision would be necessary and reasonable in the particular context of the site and the proposal*".
- 5.2.24 Giving weight to the appeal decision and considering the Viability Assessment provided, officers accept that the scheme would be unviable to deliver any affordable housing.

## Housing Mix

- 5.2.25 The NPPF is clear that housing should be provided to meet an identified need and the Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and NPPG and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.2.26 Policy S1 includes a number of key principles for decision making of which principle 2) is relevant in that it recognises that need to *“Deliver a sustainable level of housing growth that will deliver a wide choice of high quality housing in the most sustainable locations”*. Policy H2 requires developments *“to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand”*. The LHNA (2021) concludes that the District has a need for smaller dwellings however the biggest requirement is for 3 bed dwellings.
- 5.2.27 The Council seeks to deliver a range of homes in terms of sizes that will contribute to the creation of mixed, inclusive and sustainable communities. It will be important to ensure the District’s housing stock provides for a wide range of housing needs and offers choice. It is a key component of the Planning system, including guidance contained within the NPPF, that the right type of housing is delivered for the community. Policy H2 of the approved LDP states that *“all developments will be expected to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand”*.
- 5.2.28 As discussed above, the proposal includes 7 LD units which would provide specialist housing for people with learning disabilities which accords with providing a mix and range of housing.
- 5.2.29 The 22 dwellings proposed comprise a mix of 1, 2 and 3 bed units as follows:

<b>No. of bedrooms</b>	<b>No. of units</b>
1	11
2	9
3	2

- 5.2.30 Whilst there is a high number of 1-bedroom units proposed, this is partly derived from the limitations of the listed building to be converted and all 7 LD units being 1-bedroom. Accordingly, the mix of units proposed is considered acceptable in this instance.

### **5.3 Design and Impact on the Character of the Area**

- 5.3.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable, and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development. It should be noted that good design is fundamental to high quality new development and its importance is reflected in Section 12 of the NPPF at Paragraph 131 which states that:

*“The creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

5.3.2 Paragraph 139 states that:

*“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.”*

5.3.3 LDP policy S1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply 14 key principles in policy and decision making that include: *12. Maintaining the rural character of the District without compromising the identity of its individual settlements.*

5.3.4 LDP policy D1 takes this further in seeking to ensure that all development respects and enhances the character and local context and makes a positive contribution in terms of:-

*a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*

*b) Height, size, scale, form, massing and proportion;*

*c) Landscape setting, townscape setting and skylines;*

*d) Layout, orientation, and density;*

*e) Historic environment particularly in relation to designated and non-designated heritage assets;*

*f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*

*g) Energy and resource efficiency.*

5.3.5 LDP policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of any original buildings and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area and where possible enhances the sustainability of the original building; and does not involve the loss of any important landscape, heritage features or ecology interests.

5.3.6 More detailed provisions supplementing the above requirements for high quality design and appropriate layout, scale and detailing of development are set out in the MDDG (2017).

5.3.7 The two proposed mews houses are located to the east of Friary East adjacent to the proposed access. Their height, design and layout are acceptable in this location.

5.3.8 In an effort to address the concerns raised by the Inspector in regard to the siting of Block F3 in the southern part of the garden, both the PFS and LD blocks are now sited in the south eastern corner of the site. The PFS block lies perpendicular to the listed building, facing onto the main garden. The LD unit is located to the east of the PFS block. The result of this is that the buildings are very close to each other, at a

distance of 1.8m, and would effectively be 'shoehorned' into the corner of the site, thereby appearing cramped and contrived. Furthermore, the siting of the two blocks bears no relationship to the existing grain of development and established settlement pattern to the east and west of the application site.

5.3.9 The proposed PFS and LD block are not considered to be of high quality design and would appear rather bland and 'flat' in the context of the site and listed building. The design is not considered to reflect the surrounding architecture.

5.3.10 Accordingly, the proposed PFS and LD blocks, due to their siting, scale and design are not considered acceptable forms of development in this sensitive, backland location.

#### 5.4 Impact on Heritage Assets

5.4.1 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Council must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Similarly, Policy D3 of the approved Maldon District LDP states that development proposals that affect heritage assets must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest. Where a proposed development would cause less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use. Policy S5 is also relevant as it seeks, at 7), to preserve and enhance the quality of the historic character including the built environment.

5.4.2 The site is within the Maldon Conservation Area. When viewed from Tenterfield Road and Chequers Lane, the application site is legible as the walled garden to a Georgian mansion. It is a verdant and tranquil pocket of land on the edge of the town's historic core. Chequers Lane is a charming part of the conservation area; one side formed by the ancient and wonderfully irregular boundary wall, possibly aligning with the eastern boundary of the medieval Friary precinct. The other side is composed of a late-1990s housing association terrace where considerable effort was applied in its design to achieve an agreeable pedestrian-scaled environment.

5.4.3 The 2021 appeal decisions are a material planning consideration which must be given weight when considering the current applications.

5.4.4 At paragraph. 10 of the appeal decision, the Inspector made the following assessment of the importance of the application site to the conservation area:

*"the garden at Friary East makes a very significant contribution to the character and appearance of the MCA [Maldon Conservation Area] by providing a substantial area in the town centre that is largely free of built form. The trees and the historic Grade II listed garden walls contribute positively to the appearance of this established visual breathing space amongst buildings, which is clearly visible from the Longfield public open space, the narrow and intimate pedestrian route of Chequers Lane running alongside the eastern boundary wall, and along Tenterfield Road."*

5.4.5 At paragraph 17 of the appeal decision, the inspector made the following remarks on the importance of the garden to the listed building's setting and significance:



*“historically the south elevation of Friary East was the primary face of the building, and the relationship of this elevation with formal gardens to the south was, and remains, particularly important in heritage terms. While no readily discernible features of the formal Georgian gardens remain, the substantial garden area is still a principal positive element of the immediate setting of Friary East, providing breathing space for the substantial building in its otherwise relatively cramped and built-up environs, and allowing its Georgian status and character to be appreciated.”*

- 5.4.6 The appeal granted listed building consent for the conversion of Friary East to 7 apartments and the demolition of the 1960s hall. The pre-commencement conditions on this consent have been discharged, and the hall has been demolished. The latest listed building consent application seeks approval for the same scheme of conversion which, as it has already been allowed at appeal, should be regarded as acceptable in principle.
- 5.4.7 The appeal decision found that there would be no harm to the settings or significance of Friary West, Friary East’s eastern boundary wall, or to the stable / outhouse block. As the present development is a refined and reduced version of the appeal scheme, it should also have no harmful impact on these heritage assets.
- 5.4.8 The appeal decision refused planning permission for new residential blocks within the grounds of Friary East because of the harm that would be caused to the Maldon Conservation Area and to the setting and significance of Friary East. The following sections of this report therefore focus mainly on the impact of the latest proposal on the conservation area and the setting of Friary East.

#### Impact on the Maldon Conservation Area

- 5.4.9 The removal of the 1960s extension from the east elevation of Friary East has had a positive impact on the character of the conservation area.
- 5.4.10 The Inspector found that the two townhouses proposed to the east of Friary East would cause no harm to the conservation area. It is considered that the design of the two townhouses has been improved in the current proposals and have introduced pitched roof, which relates better to the nearby listed outbuildings and as such would still cause no harm to the conservation area.
- 5.4.11 As per the appeal decision, the impact on the conservation area results from the two proposed blocks of flats in the garden of The Friary. The appeal scheme included a two-storey, flat-roofed block directly to the south of The Friary, while a three-storey, flat-roofed block was proposed in the south-eastern corner of the site. The Inspector’s comments on the impact of those blocks on the conservation area, contained in paragraph 11 of the appeal decision, are as follows:
- “The introduction of these two substantial blocks would harmfully erode the open and undeveloped nature of the grounds, reducing the scale and extent of the garden area associated with the Georgian mansion and its principal historic outlook, and running contrary to the historic pattern of development here.”*
- 5.4.12 The current application also proposes two blocks of flats in the garden; however, they differ from those in the previous scheme in terms of scale, design, form and position. The section of garden directly to the south of The Friary, all the way to the south boundary, would be kept free of buildings, as both blocks of flats would be positioned in the south-eastern corner of the garden.

- 5.4.13 The PFS block of 6 flats would be 2 ½ storeys in height with a pitched roof, its principal elevation facing west, towards Friary East's garden. It would have a central front doorway and a symmetrical composition of windows, referencing the principal elevation of Friary East.
- 5.4.14 To the east of this would be a predominantly two-storey pitch-roofed block of 7 apartments for adults with learning disabilities (these are referred to as the LD apartments). This block would drop to one storey at the eastern end. The half-hipped roof of the LD block would reflect the roof on the listed stable block, although applied over a much wider span.
- 5.4.15 There is no question that the latest scheme, which is informed by several pre-application discussions, is an improvement on the previous one. However, building blocks of flats within the garden of the Georgian mansion would unavoidably cause harm to the character of the conservation area, because the value of the application site to the character of the conservation area is largely bound up with the fact it is a historic and undeveloped garden. Most of the Inspector's criticisms of the two blocks of flats proposed in the appeal, quoted above, can be applied to the two blocks of flats in the current scheme, albeit to a lesser degree since the two blocks have been reduced in scale and the section of garden immediately to the south of the house has this time been kept free of built form. The latest proposal would still erode the 'undeveloped nature of the grounds', reduce the extent of the garden area associated with the mansion, and would run contrary to the historic pattern of development.
- 5.4.16 Regarding the views of the new blocks from outside the site, the inspector commented in paragraph 12 of the appeal decision that:

*“even with its set-down position, the three-storey flat-roofed block rising above the listed boundary wall would impose unduly upon Chequers Lane and be clearly visible in public street-level views from multiple locations nearby”*

- 5.4.17 As the LD block comprises a two-storey pitched roof building (it was a three-storey flat-roofed building in the appeal scheme) and has been moved further south within the site and would appear less imposing than the appeal scheme from outside the site. However, both the LD and PFS blocks are clearly visible from Chequers Lane and Tenterfield Road and would still appear incongruous due to their location within the verdant historic garden, and their presence would detract from the character of the site and its contribution to the special character and appearance of the conservation area.
- 5.4.18 Where the Inspector previously concluded that the proposed buildings would cause “*very significant harm to both the character and appearance of*” the conservation area’ (paragraph. 12), the Council's Conservation officer considers the current proposals would cause a moderate degree of less-than-substantial harm to the character and appearance of the conservation area.

#### Impact on the setting of Friary East as a grade II listed building

- 5.4.19 At paragraph 19 of the appeal decision the inspector criticised the pair of town houses, explaining that due to ‘*its angular form, and its scale and proximity, [it] would relate uncomfortably to the important east elevation of the listed building*’. The form of the town houses has been refined, incorporating steeply-pitched roofs, creating almost Jacobean-style gables. The Conservation Officer is satisfied they no longer pose harm to the setting of the listed building.

5.4.20 Regarding the impact of the two blocks within the garden on the setting of Friary East, the inspector wrote at paragraph. 18 of the appeal decision:

*“the relationship of the grounds with the mansion would be permanently and fundamentally altered by the introduction of blocks F2 and F3 and the access and parking areas. This would substantially harm the setting of the listed building and thereby erode its significance.”*

5.4.21 The adjustments to the scale, form and position of the two blocks in the garden mean that they would not cause such a high degree of harm to the listed building’s setting. In particular, by retaining the section of garden between the south elevation of the house and the south boundary free of built form would reduce the degree of harm. However, this is negated to an extent by the proposed access and the revised proposals to include a car parking area in the southern part of the garden for six cars with an extended manoeuvring area. Although parked cars are not permanent structures the presence of cars parked in this location would reduce the extent of garden, compounding the urbanising impact of the development overall and harm the setting of the listed building.

5.4.22 Due to the particular importance of the garden to the setting of the listed building, the Conservation Officer considers the proposal would cause more than the low level of harm, as ascribed by the applicant’s heritage consultant. Rather, the partial development and urbanisation of its garden setting would result in a moderate degree of ‘less than substantial’ harm to the significance of Friary East.

#### Direct impact on The Friary

5.4.23 The proposed conversion of Friary East into 7 apartments is identical to the scheme already allowed at appeal. Notably, paragraph. 15 of the appeal decision states:

*The sub-division of the listed building to form 7 apartments would result in some loss of historic fabric and some loss of legibility of the historic plan form, particularly where doors would be closed off, rooms would be divided, and circulation routes would be truncated to provide self-contained units. Generally, rooms would be kept as recognised by cornices and many features such as historic door surrounds, would be retained. The conversion would also facilitate restoration of the listed building, which is evidently in growing need of care, and bring it back into use. Therefore, while there would be some harm to the significance of the listed building, the extent and nature of this would be limited.*

5.4.24 The inspector determined that the limited level of harm would be offset by securing the building’s ‘optimum viable use’ and by the ‘considerable enhancement realised through the removal of the 1960s hall (paragraph 36) and there is no reason to arrive at a different conclusion now.

#### Impact on the settings of Friary West, the eastern boundary wall, and the stable / outhouse

5.4.25 Although the proposed development would represent changes within the settings of each of these heritage assets, it is accepted that these changes would not result in harm to the significance of these listed buildings.

#### Identification of the degree of harm to the significance of the heritage asset

5.4.26 The Conservation Officer advises that the applications would result in ‘less than substantial’ harm to the significance of the Maldon Conservation Area and Friary

East as designated heritage assets. The two blocks of flats and the access road in the garden would result in a **moderate** degree of 'less than substantial' harm. The conversion of Friary East will cause a **low** degree of 'less than substantial' harm. The pair of town houses would cause no harm.

5.4.27 Overall, the proposed development would result in harm to the character, appearance and significance of Maldon Conservation Area and the setting of the listed building and would therefore conflict with policies S5, D1, D3 and H4 of the Maldon District Approved LDP. In accordance with paragraph 208 of the NPPF, the 'less than substantial' harm must be weighed against the public benefits of the proposal, including securing the 'optimum viable use' of the heritage assets affected. This balancing exercise is undertaken in section 5.16 of this report.

## 5.5 Impact on Residential Amenity

5.5.1 The basis of Policy D1 (4) of the LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlooks, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by Section C07 of the MDDG (2017). Policy H4 (density (7)) requires consideration of the impacts of development on neighbouring amenity.

5.5.2 The PFS and LD blocks would not result in overlooking of residential properties to the east due to their siting, distance from neighbouring residential properties, window location and orientation of the buildings. The mews houses have also been designed to minimise overlooking of adjacent properties through the location of windows.

5.5.3 The PFS block faces towards the garden of Friary West. Whilst the occupants would have views towards the rear garden of Friary West, the distance between the front elevation and the western boundary of the site, adjacent to Friary West is approximately 30m. This distance is considered sufficient to minimise any impact through overlooking and loss of privacy of the adjacent property.

5.5.4 Concerns have been raised in a letter of representation regarding loss of light and privacy to the pre-school adjacent to the site. Whilst this is noted, there is no requirement in policy for proposals to consider the amenity of commercial premises. Notwithstanding this, due to the siting of the LD building it is considered that it would not be overbearing or result in any unacceptable loss of light to the neighbouring commercial premises.

5.5.5 Accordingly, the application is acceptable in regard to impact on residential amenity.

## 5.6 Access, Parking and Highway Safety

5.6.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposal, inter alia, to sufficient parking facilities having regard to the Council's adopted parking standards (the adopted Vehicle Parking Standards VPS SPD). Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.6.2 The application is supported by a Transport Statement ('TA') prepared by PJA, June 2024.

## Parking

- 5.6.3 The VPS SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.6.4 The VPS SPD stipulates that for one bed units, a minimum of one car parking space is to be provided and for two and three bed dwellings, a minimum of two car parking spaces would be required to meet policy requirements. As the application site is in a town centre location with good accessibility to public transport and walking distances to local services and facilities, the VPS SPD advises that a minimum of one parking space per dwelling would be required and there is no requirement to provide visitor parking spaces.
- 5.6.5 The proposal includes provision of 22 parking spaces, including two disabled parking spaces, therefore 1 space per unit. The Inspector, at paragraph. 28, confirmed that given the town centre location of the site and proximity of several public car parks for visitors, the provision of parking on a 1 for 1 basis was acceptable. Furthermore, the Inspector was satisfied that although the parking bays did not meet the minimum sizes set out in the VPS SPD, they would be safe and usable spaces for the residents. The proposed parking spaces also are below the minimum sizes set out in the VPS SPD. However, given the Inspector's findings, there is no reason to come to a different conclusion with this application therefore the amount of parking provided and the size of parking bays is accepted.
- 5.6.6 It is noted that the existing 20 spaces within the northern part of the site would be retained for use by the other surrounding ECC related functions and would not be affected by this development proposal.
- 5.6.7 Cycle parking is provided at different locations across the site with a total of 26 cycle spaces. There is a cycle store to the west The Friary, to the north of the PFS block and to the north of the LD block. In addition, both mews houses also have cycle parking spaces at the front of each dwelling. Accordingly, cycle parking is well provided for on site in accordance with the VPS SPD.

## Access

- 5.6.8 The existing site access from Carmelite Way would serve the proposals. A new vehicular access through the site, between Friary East and the news houses, is proposed which would extend to the southern part of the site where it turns east and west into the proposed parking areas. The road has been designed to be a shared surface therefore it also serves as the pedestrian access into and through the site. The access road would have a minimum width of 4.6m, allowing for two cars to pass each other, which the TA confirms is in line with Manual for Streets.

- 5.6.9 A new pedestrian access is proposed from the southern part of the site onto Longfield. The submitted Design Access Statement (DAS) states at 3.5.2 that this will be a “new gated access point”.
- 5.6.10 Although officers had raised concerns regarding the width of the access the Inspector did not raise any concerns with regard to the location or design of the access.
- 5.6.11 Letters of representation have raised concerns regarding the increased traffic accessing the site and need for traffic calming measures. It is noted that this wasn't an issue raised by the Inspector. Furthermore, the Highways Authority is satisfied that safe and suitable access to the site is already provided via Carmelite Way which is a private road. Accordingly, no objection is raised on the grounds of highway safety.

### Summary

- 5.6.12 Having regard to the appeal decision and the response from the Highway Authority, no objection is raised in regard to highway safety and parking provision.

## **5.7 Private Amenity Space**

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted MDDG (2017) at C07 advises a minimum garden size for each type of dwellinghouse, namely, 25m<sup>2</sup> for flats, 50m<sup>2</sup> of private amenity space for dwellings with 1-2 bedrooms, and 100m<sup>2</sup> for dwellings with 3+ bedrooms.
- 5.7.2 The following on site amenity space is proposed:
- The mews houses would each have a private rear patio measuring 17sqm
  - A communal amenity area for the LD units is proposed to the rear of the LD block measuring approximately 215sqm
  - A communal garden to the south of Friary East measuring approximately 1,100sqm
- 5.7.3 The Inspector acknowledged that C07 of the MDDG advises that useable outdoor amenity could be in the form of private or communal gardens, balconies, children's play areas, allotments, or public spaces. At paragraph. 23 the Inspector states that:
- “residents would also have access to the proposed on-site communal gardens, which would provide a significant shared outdoor space of around 1063m<sup>2</sup>. However, the more formal nature of this communal space would be unlikely to be suitable for some activities identified in C07, such as having a kick around. An extensive area of public open space, including play equipment, at The Longfield is also within modest walking distance, albeit I note that the route involved would not be appropriate for unaccompanied young children and that play there could not be supervised from within the home in the way private gardens generally allow.”*
- 5.7.4 The Inspector concluded at paragraph. 25 *“that the proposal would provide suitable living conditions for future occupiers, with regards to outdoor space provision”*.
- 5.7.5 It is the case with the current proposals that the news houses do not have private amenity space that accords with the MDDG however they do have access to the communal gardens. Likewise, occupants of the LD block could use the communal space to the rear of the block, or the larger communal garden. Residents in the listed building and the PFS block have direct access to the communal garden.

5.7.6 In addition, the pedestrian access from the site to the Public Right of Way (PRoW) to the south would provide direct access for residents from the site to the adjacent public open space.

5.7.7 Accordingly, the provision of on site amenity space is consistent with Policy D1 of the LDP.

## 5.8 Ecology and Biodiversity

### Protected and Priority Species

5.8.1 Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by: (amongst other things) minimising impacts on and providing net gains for biodiversity*'.

5.8.2 Strategic LDP Policy S1 includes a requirement to conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network.

5.8.3 Policy N1 of the LDP states that open spaces and areas of significant biodiversity or historic interest will be protected. There will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. Policy N2 of the LDP states that, any development which could have an adverse impact on sites with designated features, priority habitats and/or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted.

5.8.4 The application is supported by an Ecological Impact Assessment, prepared by Place Services, October 2023. One small building is proposed to be demolished which was categorised as having "low" potential for roosting bats. One further emergence survey was therefore undertaken which identified a "likely absence" of bats within the building. Accordingly, it is considered the proposals would not result in harm to protected species. The Assessment identifies mitigation and enhancement proposals to ensure there would be no significant impacts on the identified ecological features. Respoke biodiversity enhancement measures are also proposed. These measures could be secured via planning conditions.

### European Designated Sites

5.8.5 The site falls within the evidenced recreational Zone of Influence (Zoi) of the Essex Coast RAMS, which is an adopted SPD. It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Maldon District Council (MDC), working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

5.8.6 The LPA is therefore required to prepare a project level Habitat Regulation Assessment (HRA) Appropriate Assessment to secure a per dwelling tariff by a legal agreement for the delivery of visitor management measures at the designated sites.

This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.

- 5.8.7 To accord with Natural England's requirements and standard advice an Essex Coast RAMS HRA Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from the HRA Stage 1: Screening Assessment are listed below:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the Zol for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the specified development types? Yes – The proposal is for 22no. dwellings

HRA Stage 2: Appropriate Assessment - Test 2 - the integrity test

Is the proposal for 100 houses + (or equivalent)? No, the proposal is for 22no. dwellings

Is the proposal within or directly adjacent to one of the above European designated sites? No

Summary of Appropriate Assessment

As the answer is no, it is advised that should planning permission be forthcoming, a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the named European sites from recreational disturbance, when considered 'in combination' with other development.

The Essex Coastal RAMS has been adopted. This document states that the flat rate for each new dwelling has been calculated at a figure of £163.86 (2024-2025 figure) and thus, the developer contribution should be calculated at this figure. The applicant has indicated that they are agreeable to paying this contribution.

Conclusion

- 5.8.8 It is considered there is sufficient information submitted to assess protected and Priority species. Although the applicant is willing to enter into a legal agreement to secure the necessary RAMS contribution, no such agreement is in place. Accordingly, the proposal is not considered to accord with policies S1, D1, N1 and N2 of the LDP and provisions in the NPPF.

**5.9 Landscaping and Trees**

- 5.9.1 Policy D1 of the LDP advises that any development should respect and enhance the character and local context and make a positive contribution in terms of landscape setting. Further policy H4 of the LDP states that backland and infill development will be considered on a site-by-site basis to take into account local circumstances, context and the overall merit of the proposal. Backland and infill development will be permitted if all the criteria under this policy are met, which includes the proposal will



not involve the loss of any important landscape, heritage features or ecology interests.

- 5.9.2 The application is supported by an amended Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS) report date 29 Many 2024. The submitted report states that a preliminary AIA and AMS have been provided to reduce the impact of trees from the proposed scheme, however this information was not provided and it is assumed that it is the 2017 report being referred to.
- 5.9.3 The Council engaged an arboricultural consultant to review the submitted information and the amended information. The response is discussed below.
- 5.9.4 The proposal includes the removal of a veteran tree (T10, Mulberry). The Council's Arboriculturist has raised concerns in regard to the justification provided for its loss as it is considered alternative management options could be applied to the tree to ensure its retention. However, it is noted that the tree was proposed to be removed as part of the previous scheme and this was not a point argued in the appeal by the LPA and therefore not considered to be an issue by the Inspector. Similarly, no objection was raised at appeal to the loss of the mature trees on the northern car park. Whist the loss of the trees is regrettable, it would be unreasonable for the loss of these trees to now be a reason for refusal.
- 5.9.5 However, the previous report identifies that a total of 41 trees would need to be removed, whereas this application would require 45 trees to be removed. The previous scheme is shown to require the removal of only 1 'A' quality tree and 10 'B' quality trees which are considered to have more amenity importance than 'C' quality trees, whereas the current scheme shows 2 'A' quality trees and 17 'B' quality trees being removed, therefore, having a greater impact on the trees with more amenity and future amenity potential. No justification has been provided for the loss of additional 'A' and 'B' quality trees.
- 5.10 Concerns have also been raised by the Council's Arboriculturist with regard to the pollarding of trees T18 and T19, both of which have a high amenity value and a clearly visible from the north of the site. The timing and amount of pollarding is considered excessive and would detrimentally impact on their amenity in the landscape and could also impact on their condition and longevity.
- 5.11 The Council's Arboriculturist also raises many concerns with regard to tree protection during construction and in the longer term, for example, the impact to trees along the site's southern boundary. Specifically, the Arboricultural Method Statement uses vague terminology in regard to tree protection, for example the word "should" is used throughout the document whereas a more certain wording, such as the word "would" should have been used, thus allowing for misinterpretation and potentially damage to trees.
- 5.12 In summary, insufficient information has been submitted with the application to demonstrate the impact on trees would be acceptable.
- 5.12.1 The application is supported by a Landscape Strategy and Landscape Masterplan. The Landscape Strategy includes the different character areas within the site and how will be landscaped and includes details for the boundary strategy, planting palette, materials, and trees. No objection is raised in terms of the proposed landscaping however it is not considered to mitigate the potential harm to the trees and the overall impact of the proposals.

## 5.13 Drainage and Flood Risk

5.13.1 Policy D5 of the LDP states that the Council's approach is to direct strategic growth towards lower flood risk areas, such as Flood Zone 1, as identified by the Environmental Agency (EA). The site is located in Flood Zone 1 and is therefore, at low risk of flooding. The application is supported by a Surface Water and Foul Water Drainage Strategy, prepared by Create Consulting Engineers Ltd, June 2024.

5.13.2 The Lead Local Flood Authority (LLFA) was consulted on the application and raised a holding objection for the following reasons:

- *Discharge to the foul sewer network is an unsuitable means of discharge. It must be evidence that all discharge methods have been considered in accordance with the drainage hierarchy. Please see this link to the drainage hierarchy: <https://www.essexdesignguide.co.uk/suds/discharge-locations/the-drainage-hierarchy/>*
- *Please provide detailed pollution risk and mitigation information in line with the Simple Index Approach.*
- *The SUDS Pro Forma states that BRE365 testing has been carried out, please provide the results of this testing. Please show if there is viability for infiltration.*

5.13.3 In response to the above, the applicant submitted an updated Surface Water and Foul Water Drainage Strategy (Revision A) to address these matters. Notwithstanding this, the LLFA have advised that their holding response remains in place for the following reasons:

- *Please show an updated drainage plan showing the connection to the surface water sewer at the north west of the site.*
- *Please clarify if permeable paving has also been considered for this development.*

5.13.4 Anglian Water have also been consulted on Foul Drainage and note that the foul drainage from this development is in the catchment of Maldon Water Recycling Centre which has available capacity for these flows. Therefore, there are no concerns in relation to foul drainage.

5.13.5 At the time of writing, the application includes insufficient information in regard to surface water drainage.

## 5.14 Other Material Considerations

### Archaeology

5.14.1 Policy D6 requires that where development might affect archaeology, an assessment from an appropriate specialist must be carried out to identify the likely impact on known or potential heritage assets.

5.14.2 The application has been supported by an Archaeological Desk Based Assessment.

5.14.3 Place Services have provided specialist archaeological advice in response to the application. The Essex Historic Environment Record (EHER) shows that the proposed development is sited in the core of the historic settlement of Maldon (EHER 7719). The site is located within the precinct of the medieval Carmelite Friary (EHER 7728). The Priory was founded in 1293. There is known to have been a church, belfry, cemetery, 'le litle courtyard', 'le priors garden', and other structures. The

Priory was dissolved in 1538. After 1544 the Priory was acquired by Thomas Mildmay who sold it to Vincent Harris, son of William, in 1563. Vincent Harris built a Mansion House on or near Friary East site c.1572. In 1805 the house was demolished, and the present Friary East and West were constructed.

- 5.14.1 Excavations and trial trenching were carried out across part of Friary East in 1990-1991 revealing structures and burials. In 2017 Archaeology South-East undertook a small-scale archaeological evaluation by trial trenching to the rear of Friary East on the site of the present application. Three trenches were excavated within the site. Archaeological features were recorded in two of these trenches, comprising three pits and six linear cuts. It is considered that two of the linear cuts are post-medieval and the remainder of the features are Early Iron Age, dated from the pottery found. No evidence for Friary East was found. Excavations at the western end of the car-park recovered further evidence for prehistoric activity in the area, as well as cultivated soils relating to the period of occupation by Friary East and the Mansion House.
- 5.14.2 No objection is raised in response to the application however conditions requiring a full archaeological assessment and programme of works, including implementation of the archaeological work, would be required.

#### Contamination

- 5.14.3 A Phase 1 Desk Study identified the presence of elevated levels of lead contamination in shallow soils in the south-eastern part of the site. The Phase 2 Ground Investigation revealed that elevated levels of lead, above acceptable thresholds, are present in this area. It also identified a localised area of anomalously deep made ground in the northwest of the site. To mitigate any risk of contamination, Environmental Health has recommended the preparation of a Remediation Method Statement which could be secured via a planning condition.

#### **5.15 Necessary Associated Infrastructure Improvements Required**

- 5.15.1 The applicant's PS states that the applicant is willing to enter into a Section 106 (S106) agreement to include the following:

- A RAMS contribution of £163.86 (2024-2025 figure) per dwelling

- 5.15.2 In accordance with the statutory tests in regulation 122 of The Community Infrastructure Levy Regulations 2010, the above obligations would be necessary to make this application acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.

- 5.15.3 A S106 agreement has not been agreed therefore the abovementioned obligations cannot be secured.

#### **5.16 Planning Balance**

- 5.16.1 The key priority within the NPPF, stated at paragraphs 7 and 8, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for economic, social and environmental objectives as set out in the NPPF.
- 5.16.2 In judging whether the scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers, against the harm which would arise from the proposed development.

5.16.3 The main impacts of the proposal which are benefits are:

5.16.4 Securing the optimum viable use of the listed building through its conversion to residential use. This is given significant weight.

5.16.5 Social benefits from providing market homes in an accessible location. Although the Council has a 5 Year Housing Land Supply (5YHLS), the provision of homes is given significant weight.

5.16.6 The provision supporting independent living accommodation for people with learning disabilities is given significant weight.

5.16.7 Economic benefits flowing from the construction phase of the development, where the opportunity exists for sourcing local labour and materials. No details have been provided in the application to assess the benefit with any degree of certainty i.e. job creation numbers. This is largely a short-term benefit. Economic and social benefits derived from the new residents supporting local facilities and services. The proposed development would make effective use of a previously development site. These benefits are afforded moderate weight.

5.16.8 The main impacts of the development that are harmful are:

5.16.9 The impact on the setting of the listed building and conservation area which would be permanent and irreversible is given significant weight.

#### Quality of design

5.16.10 The NPPF states in paragraph. 131 that achieving high quality design is fundamental to what the planning and development process should achieve. In this case, the scale, design and siting of the LD and PFS blocks are not in keeping with the local context and the development does not achieve high quality design. This harm is afforded significant weight.

5.16.11 Insufficient information has been submitted to justify the loss of garden 'A' and 'B' trees and to ensure retained trees will be adequately protected.

5.16.12 Although the applicant has indicated a willingness to enter into a Section 106 Agreement to secure obligations for contributions towards RAMS mitigation, this has not been agreed and the obligations are therefore not secured. Accordingly, the proposal would result in harm due to the impacts on RAMS.

5.16.13 Neutral impacts are identified as follows:

5.16.14 It is considered that impacts of the development with regard to contamination, noise, flood risk and archaeology could be mitigated through planning conditions and are therefore considered neutral impacts.

5.16.15 With regard to the NPPF, the development proposal does not represent sustainable development; it fails to address heritage impact or to protect the natural environment. It is considered that the heritage impact and impact on trees together with the scheme not resulting in a high quality design, weigh heavily against the proposal. It is considered that the proposal is in conflict with the LDP.

5.16.16 The planning balance is not a mathematical exercise whereby an amount of weights of benefits equals an acceptable scheme, but instead provides a rounded view of the

proposals overall. It is important to recognise the benefits of the scheme but also the significant harms identified with this particular proposal which are of importance to decision making. On the merits of this particular proposal, the harms outweigh the benefits.

### Heritage Balance

- 5.16.17 Paragraph 205 of the NPPF requires that *“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be) This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. Accordingly, significant weight is given to the impact of the development on heritage assets.
- 5.16.18 In accordance with paragraph 208 of the NPPF, the ‘less than substantial’ harm must be weighed against the public benefits of the proposal, including securing the ‘optimum viable use’ of the heritage assets affected. In this case, the considerable weight to be given to the less than substantial harm to the Maldon Conservation Area and the setting of the listed building would not be outweighed by the benefits of the scheme, either individually or cumulatively.

## **6. ANY RELEVANT SITE HISTORY**

- **17/00763/FUL and 17/00764/LBC** – Residential redevelopment for 28 dwellings comprising conversion of listed building to 7 apartments, demolition of unsympathetic 1960s extension and replacement with 2 townhouses, construction of new build development within the grounds to the south comprising 19 apartments, hard and soft landscaping and associated parking and infrastructure. 17/00763/FUL refused and dismissed at appeal. 17/00764/LBC refused and allowed at appeal.
- **14/00952/ESS** - Listed Building Consent for Rebuilding and reinstatement of existing boundary brick wall. Granted Listed Building Consent:17 July 2015
- **05/00958/ESS** - Proposed extension and internal alteration to provide new reception foyer and accessible gym facilities. Approved: 8 September 2017
- **99/00947/LBC** - Proposed installation of a disabled platform lift. Granted Listed Building Consent:2 February 2000

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### **7.1 Representations received from Parish / Town Councils**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Maldon Town Council	<p>Recommends refusal:</p> <ul style="list-style-type: none"> <li>• Bulk, scale, character of the LD block would be detrimental to character of the historic environment.</li> <li>• Parking provision is inadequate.</li> <li>• Overdevelopment of a green, open space</li> </ul>	<p>All points addressed in the report with the exception of the loss of a community facility. The Adult Community Learning facility was relocated to space above Maldon Library in 2024.</p>

Name of Parish / Town Council	Comment	Officer Response
	<ul style="list-style-type: none"> <li>• Loss of habitat, mature and a vintage tree, damage to biodiversity and geodiversity,</li> <li>• Loss of a community facility,</li> <li>• Archaeological impact near of the historic settlement of Maldon.</li> <li>• Need for the development has not been established.</li> </ul>	

## 7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Historic England	Do not wish to offer any comments. Suggest the views of the Council's specialist conservation and archaeological advisers are sought, as relevant,	Noted
Anglian Water	<p>Foul drainage - The foul drainage from this development is in the catchment of Maldon Water Recycling Centre that will have available capacity for these flows. Used water network - the development has the potential to have an unacceptable risk of flooding/or pollution from the network. Condition is requested.</p> <p>Surface Water disposal - The preferred method of surface water disposal would be to a sustainable drainage system SUDS with connection to the sewer seen as the last option. The surface water strategy in the flood risk assessment submitted is unacceptable.</p>	Addresses in section 5.13 of the report.
Maldon Society	Response to amended scheme - whilst the latest amendments go some way to address the objections	Noted and these points are addressed in the relevant sections of the report.

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	<p>raised at that time (e.g. in terms of traffic management), the Committee feels that the amendments do not address those objections sufficiently for the objections to be withdrawn.</p> <p>Initial response – objects for the following reasons:</p> <ul style="list-style-type: none"> <li>• Full archaeological survey is required.</li> <li>• Preferable for listed building not to be subdivided to preserve original features.</li> <li>• Space between original house and outbuildings should not be built on following demolition of the hall.</li> <li>• Sale price not realistic, sale for private occupation preferable. Deplorable ECC held onto site when no longer uses, failing to realise its asset value.</li> <li>• Access is problematic due to queuing, parking is inappropriate, pedestrian safety, construction traffic.</li> </ul>	
LLFA	<p>Holding objection based on the following:</p> <ul style="list-style-type: none"> <li>• Please show an updated drainage plan showing the connection to the surface water sewer at the north west of the site.</li> <li>• Please clarify if permeable paving has also been considered for this development.</li> </ul> <p>A number of advisory comments are also provided.</p>	Addressed in section 5.13 of the report.
Cadent Gas	No objection however an informative is requested as the site in in close	Noted, an informative could be attached if the planning application was

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
	proximity to the medium and low-pressure assets.	approved.

### 7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Ecology	No objection subject to securing: a) a proportionate financial contribution towards Essex Coast RAMS b) biodiversity mitigation and enhancement measures	Addressed in section 5.8 of the report.
Environmental Health	No objections subject to a condition regarding land contamination.	Addressed in section 5.14 of the report.
Trees	The Arboricultural report as amended has not sufficient addressed the concerns or queries made and lack sufficient detail or justification to support the proposal from an Arboricultural perspective.	Addressed in section 5.9 of the report.

### 7.4 Representations received from Interested Parties

7.4.1 6 letters were received **objecting** to the application as submitted and the reasons for objection are summarised as set out in the table below:

Comment	Officer Response
<p><b>Heritage Impacts</b></p> <ul style="list-style-type: none"> <li>-unique building, garden and its wall should be retained as it is</li> <li>- the wall along Chequers Lane will be undermined, not just physically but also visually</li> <li>-This is a conservation area and we should try and protect this structure and the pleasing outlook as much as we can by keeping all building a distance away and at a suitably low level i.e. 2 storey and less</li> <li>- All effort has been made by the architects to keep the buildings out of the visual line of Friary East building and in doing so the buildings have all been pushed into the East side of the site closest to Friary East Wall. This wall is a unique feature in Maldon, next to a highly used footpath leading into town</li> </ul>	Addressed in section 5.4 of the report.



Comment	Officer Response
<p>enjoyed by a large number of Maldon residents. Once this is spoiled by having large building blocks built in such close proximity it will never be regained.</p> <ul style="list-style-type: none"> <li>- Buildings are too close to the ancient Friary wall and the site will be overdeveloped</li> <li>- No need for more development in this sensitive area</li> <li>- unique view of the wall and trees at the end of Tenterfield Road would be ruined and would be detrimental to those of us living there</li> <li>- height of buildings means they are clearly visible over the wall totally ruining the unique beauty of this area</li> </ul>	
<p><b>Natural Environment</b></p> <ul style="list-style-type: none"> <li>- Open green space in the centre of Maldon.</li> <li>- Site contains many mature trees</li> <li>- Trees and shrubbery as a haven for wildlife</li> </ul> <p>Site is producing oxygen and is a habitat for many animals and birds</p> <ul style="list-style-type: none"> <li>- Resident tawny owl heard at night..</li> <li>- Site acts as a soak-away for the vast expanse of surrounding tarmac and concrete of roads and car-park</li> </ul>	<p>Addressed in section 5.8 and 5.9 of the report.</p>
<p><b>Highway safety / parking</b></p> <p>access to the site for new residents and construction traffic is too restricted</p> <ul style="list-style-type: none"> <li>- no consideration for vulnerable road-users and pedestrians in an already busy traffic route at all times of the day</li> <li>- Transport Assessment fails to mention that the access also provides access to three residential properties, from which Carmelite Way is joined at an unprioritized blind junction with no footway</li> <li>- Significant increase in traffic on Carmelite Way, and a significant extra hazard to existing residents</li> <li>- Collision data analysis is flawed as it only includes those in which injury occurred.</li> </ul>	<p>Addressed in section 5.6 of the report.</p>
<p><b>Design and Character</b></p> <p>Unsympathetic in design and over-imposing to the surrounding neighbourhood, reducing available light</p>	<p>Addressed in section 5.3 of the report.</p>

7.4.2 **11** letters were received **objecting** to the application as revised and the reasons for objection are summarised as set out in the table below:

<b>Objection Comment</b>	<b>Officer Response</b>
<p><b>Principle of Development</b></p> <ul style="list-style-type: none"> <li>- Maldon has thousands of new homes and local services and infrastructure can't cope.</li> <li>- Site is not part of the Local Development Plan.</li> </ul>	Addressed in section 5.1 of the report.
<p><b>Heritage Impacts</b></p> <ul style="list-style-type: none"> <li>- Splitting Friary East into flats would permanently change the character and nature of the building.</li> <li>- Any new building protruding above the height of the wall would be severely detrimental to the Conservation Area of Chequers Lane, Tenterfield Road and the Friary East garden. The buildings are taller than the wall.</li> <li>- Proposals would not preserve or enhance the conservation</li> <li>- Loss of unsympathetic extension but proposal would be wholly unsympathetic to the conservation area.</li> <li>- Potential damage to historic wall through construction.</li> </ul>	Addressed in section 5.4 of the report.
<p><b>Natural Environment</b></p> <ul style="list-style-type: none"> <li>- Garden is a vital greenspace</li> <li>- Tawny owls and bats are present</li> <li>- Loss of rare tree on the site.</li> </ul>	Addressed in section 5.8 and 5.9 of the report.
<p><b>Highway safety / parking</b></p> <ul style="list-style-type: none"> <li>- Lack of parking for residents in an already congested area.</li> <li>- White Horse lane cannot accommodate for cars.</li> </ul>	Addressed in section 5.6 of the report.
<p><b>Layout, Design and Character</b></p> <ul style="list-style-type: none"> <li>- Lack of open space and car parking provision for residents</li> <li>- Buildings are too tall. Disingenuous to say single storey and two store when heights are 7.5m and 10.2m.</li> </ul>	Addressed in section 5.3 of the report.
<p><b>Neighbouring Amenity</b></p> <ul style="list-style-type: none"> <li>- Overlooking from the flats to properties on Tenterfield Road, loss of light to these properties.</li> <li>- Too close to the pre-school resulting in overlooking, loss of light, clean air and privacy.</li> </ul>	Addressed in section 5.5 of the report.

7.4.3 **1** letter was received **commenting** on the application as submitted and summarised as set out in the table below:

<b>Comment</b>	<b>Officer Response</b>
This is a very much improved application, which overcomes the	Noted

Comment	Officer Response
<p>concerns about overdevelopment which led to the previous plan's rejection. Praise the much greater architectural sensitivity of the proposed new builds to their surroundings and to neighbouring properties.</p>	
<p>Concerns about the resultant increased traffic volumes, the lack of pavements and traffic calming in Carmelite Way itself.</p>	<p>Addressed in section 5.6 of the report.</p>

## 8. **RECOMMENDATIONS**

**REFUSE PLANNING PERMISSION** for the following reasons:

- 1 The proposed development, comprising the two new blocks in the south eastern corner of the site being the Learning Disabilities block and Private For Sale block, the access road within the site, and the presence of parked cars in the southern part of the site, in the grounds of the listed building, would result in a moderate degree of less than substantial harm to the Maldon Conservation Area and Friary East as designated heritage assets. The proposal is therefore contrary to Policies S1, S5, D1, D3 and H4 of the Maldon District Local Development Plan and Government guidance as contained within the National Planning Policy Framework.
- 2 The proposed new blocks in the southeastern corner of the site being the Learning Disabilities block and Private For Sale block, due to the amount of development, its size and siting and the 'backland' context of the site, would appear cramped and contrived and out of keeping with its surroundings to the detriment of the character and appearance of the area. Furthermore, the design of the two blocks is not considered to be high quality, particularly in its context of the setting of the listed building and Maldon Conservation Area. The proposal is therefore contrary to Policies S1, D1 and H4 of the Maldon District Local Development Plan and Government guidance as contained within the National Planning Policy Framework.
- 3 Insufficient information has been submitted to justify the loss of Grade 'A' and 'B' trees, works to trees and tree protection for retained trees. The proposal therefore is contrary to Policies S1, D1 and H4 of the approved Maldon District Local Development Plan and guidance in the National Planning Policy Framework.
- 4 Insufficient information has been submitted in regard to surface water drainage. The proposal is therefore contrary to Policy D5 of the Maldon District Local Development Plan and Government guidance as contained within the National Planning Policy Framework.
- 5 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, the necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy has not been secured. As a result, the development would have an adverse impact on the European designated nature conservation sites, contrary to Policies S1, D1, N1 and N2 of the approved Maldon District Local

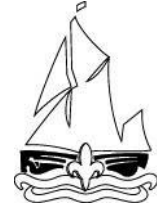
Development Plan and Government guidance as contained within the National Planning Policy Framework.

**GRANT LISTED BUILDING CONSENT** subject to the following conditions:

1. The works hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The works hereby permitted shall be carried out in accordance with the approved plans and documents as shown on the decision notice.  
REASON To ensure that the works are carried out in accordance with the details as approved.
3. The works of demolition shall not be commenced until details of the method of demolition have been submitted to and approved in writing by the local planning authority. The demolition of the outbuilding shall be carried out in accordance with the approved details.  
REASON To ensure that the demolition works do not result in any harm to the listed boundary wall to which the outbuilding is physically attached.

**Application plans:**

- Site Location Plan (as existing) (4197 PL 000);
- Site Location Plan (as proposed) (4197 PL 001 Rev. 01);
- Existing Site Plan (4187 PL 002);
- Existing Building Floor Plans (4197 PL 003);
- Existing Building Floor Plans (4197 PL 004);
- Existing Site Elevations (4197 PL 005);
- Existing Site Sections (4197 PL 006);
- Existing Friary Elevations (4197 PL 007);
- Existing Site Plan (with demolition shown) (4197 PL 012);
- Existing Building Floor Plans (with demolition shown) (4197 PL 013);
- Existing Building Floor Plans (with demolition shown) (4197 PL 014);
- Proposed Site Plan (4197 PL 102 Rev. 06);
- Proposed Conversion to Friary East(4197 PL 103);
- Proposed Mews Plans (4197 PL 104);
- Proposed PFS Plans (4197 PL 105 Rev 03);
- Proposed LD Plans (4197 PL 106);
- Proposed Site Elevations (4197 PL 107);
- Proposed Site Elevations (4197 PL 108);
- Proposed Site Elevations (4197 PL 109);
- Proposed Site Sections (4197 PL 120);
- Proposed Friary Elevations (4197 PL 121);
- Proposed Friary Elevations (4197 PL 122);
- Proposed Mews Elevations (4197 PL 123);
- Proposed Mews Elevations (4197 PL 124);
- Proposed PFS Elevations (4197 PL 125);
- Proposed PFS Elevations (4197 PL 126);
- Proposed LD Elevations (4197 PL 128);
- Proposed LD Elevations (4197 PL 129);
- Proposed PFS and LD Sections (4197 PL 130 Rev. 02);
- Proposed Mews Sections (4197 PL 131);
- Landscape Strategy (3010-RE-01 Rev.P17);
- Landscape Masterplan (3010-LA-L-10001 Rev.P06).



**REPORT of  
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

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to  
**CENTRAL AREA PLANNING COMMITTEE  
31 JULY 2024**

<b>Application Number</b>	<b>02/24</b>
<b>Location</b>	Land adjacent Myrtle Cottage, Lock Hill, Heybridge Basin, Essex
<b>Proposal</b>	Confirmation of TPO 02/24
<b>Applicant</b>	Roy Chandler – Essex Waterways Ltd
<b>Agent</b>	N/A
<b>Target Decision Date</b>	20.08.2024
<b>Case Officer</b>	Juliet Kirkaldy
<b>Parish</b>	<b>HEYBRIDGE BASIN</b>
<b>Reason for Referral to the Committee / Council</b>	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

**1. RECOMMENDATION**

**CONFIRM Tree Preservation Order (TPO) 02/24** without any modifications.

**2. SITE MAP**


Please see below.

<b>Tree Preservation Order</b>	<b>Details</b>
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**Land adjacent Myrtle Cottage, Lock Hill, Heybridge Basin, Essex**  
**TPO 2/24**

G1- 2x Horse Chestnut



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	Organisation: Maldon District Council
	Department: Department
	Comments: TPO 2/24
	Date: 14/02/2024
	MSA Number: 100018588

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 In January 2024, the Council received a notification under section 211 of the Town and Country Planning Act 1990, to fell two trees (Horse Chestnut) within a conservation area (24/00026/TCA).
- 3.1.2 Given the high visual amenity of the trees it was concluded that their removal would be an unjustifiable loss and the application was refused (24/00026/TCA) with a TPO served.
- 3.1.3 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment, which is a nationally accepted system of scoring the amenity value of a tree, was carried out. The TEMPO assessment scored the trees 15 out of 25 and concluded that the two Horse Chestnut trees had defensible merits worthy of a TPO. Therefore, a TPO was served on 20 February 2024.
- 3.1.4 One letter of objection has been received relating to the serving of the TPO 02/24 located at the land adjacent to Myrtle Cottage, Lock Hill, Heybridge Basin, Essex.
- 3.1.5 The objection remains unresolved; therefore, the question of whether or not to confirm the TPO has been brought before members to determine.
- 3.1.6 For the purposes of the report going forward, the trees will be referred to as G1 x two Horse Chestnut.

#### **3.2 The Site**

- 3.2.1 The G1 x two Horse Chestnut trees (as identified in the TPO) are located to the northern side of Lock Hill within the designated Conservation area. The two Horse Chestnut trees are mature and prominently located adjacent to Myrtle Cottage and the tow path, north of the Chelmer and Blackwater Navigation.
- 3.2.2 The trees are highly visible from the public realm and therefore provide high amenity value. The trees are mutually suppressed, forming a homogenous crown outline. The trees appear to be of a typical condition for their age and species.

### **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

#### **4.1 Town and Country Planning Act 1990 including section:**

- 211 – Preservation of trees in conservation areas

#### **4.2 Relevant Planning Guidance / Documents:**

- National Planning Policy Guidance (NPPG)

#### **Other Relevant Guidance:**

- Wildlife & Countryside Act 1981 (as amended)
- The Conservation of Habitats and Species Regulations 2017

### 4.3 Government Guidelines:

- 4.3.1 Government guidelines advise that: the Local Planning Authority (LPA) is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.
- 4.3.2 If Members decide to Confirm TPO 02/24, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:
1. that the TPO is not within the powers of the Act, or
  2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.
- 4.3.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

## 5. MAIN CONSIDERATIONS

- 5.1.1 The two Horse Chestnut trees are mature and prominently located adjacent to Myrtle Cottage and the tow path, north of the Chelmer and Blackwater Navigation. The trees are mutually suppressed, forming a homogenous crown outline. The trees appear to be of a typical condition for their age and species.
- 5.1.2 The trees are highly visible from the public realm and therefore provide high amenity value. Their removal would cause a substantial and significant impact and change to the character and appearance of the Conservation area in which it resides.
- 5.1.3 NPPG states (Paragraph 10 reference ID: 36-010-21040306) *'It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'*
- 5.1.4 As part of the Section 211 notification, relating to the felling of the two Horse Chestnut trees, the applicant stated the following reason for the works in the application form, *'request to fell and remove T7 and T8 from insurance company acting for owners of the adjacent Myrtle Cottage due to subsidence at this property'*. The application was supported by a Geotechnical report (for Subsidence Management Services dated September 2022) and Preliminary Arboricultural Report (dated September 2022).
- 5.1.5 The Council's Arboricultural Consultant raised an objection to the felling of the trees stating that, *'the proposed specification of works is premature and unjustified at this stage and will result in the loss of a significant amenity feature'*. The Council's Arboricultural Consultant also made specific comments on the submitted Preliminary Arboricultural Report, Geotechnical and Root Identification Data stating that,
- *The geotechnical data from Bore Hole 1 states sampled soils are non-plastic (NP). This indicates that the local soils are unlikely to shrink and swell significantly under the influence of vegetative related moisture abstraction.*



- *No level monitoring has been provided and therefore it is impossible to determine whether the damage experienced is progressive or seasonal.*

- *No drainage survey is provided and therefore it is impossible to discount the possibility of damage being caused by faulty or damaged pipework serving the property.*

- *The submitted arboricultural report is preliminary in nature and appears to have been compiled on the assumption that the experienced property damage is a result of vegetative related subsidence.*

5.1.6 Therefore, the proposed works under the Section 211 notification were not considered to be suitably evidenced or justified.

5.1.7 In the interest of protecting these prominent landscape features and the amenity value of these trees within the locality, the Horse Chestnut trees were assessed using the TEMPO which is designed as a guide to decision making and stands as a record that a systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment the Horse Chestnut trees scored satisfactory for the suitability of a TPO for amenity due to their prominent size and location which is clearly visible within the public realm. The expediency assessment reflected the immediate threat of the trees as mentioned in section 5.1.3. The Horse Chestnut trees scored an overall total 15 out of 25 which means that the trees had defensible merits worthy of a TPO.

5.1.8 It should be noted that the TPO would not prevent future works to the trees from being carried out, however it would control any such works to ensure that they were suitable, justified and did not harm the health of the trees or the amenity value they offer to the surrounding area. Furthermore, TPO's can serve as a useful control by securing and protecting replacement planting which is not an option under a Section 211 notification. It is considered relevant to note that whilst no suitable Arboricultural justification for the works has been provided under this application, a subsequent Section 211 application could be submitted with such justification and without a TPO in place, the LPA would be unable to secure the replacement of such an important landscape feature.

## 6. ANY RELEVANT SITE HISTORY

- **24/00026/TCA – T7 and T8 (Horse Chestnut) – Fell. TPO Served.**

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Interested Parties

7.1.1 1 letter has been received **objecting** to the TPO 02/24 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<i>The trees in question are located adjacent to Myrtle Cottage, one of the most important 'signal' buildings within,</i>	Noted.

Objection Comment	Officer Response
<i>and contributing to our villages Conservation area designation.</i>	
<i>We sympathise with the cottage's insurers demanding their removal. This action is essential to ensure long term continued stability to one of our villages Conservation areas most historic and notable ingredients.</i>	Noted.

## 8. **CONCLUSION**

- 8.1 The (G1) two Horse Chestnut trees, subject of the TPO, make a significant contribution to the character and appearance of the surrounding area due to their size and prominent location. Given that the TEMPO assessment scored high enough (15), for the trees to have defensible merits to serve a TPO, it is considered that the TPO should be confirmed to prevent the loss of the trees without first securing appropriate protection from the proposed works and a replacement tree if required and to ensure an ecological assessment takes place.