



**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

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to  
**CENTRAL AREA PLANNING COMMITTEE  
20 FEBRUARY 2019**

<b>Application Number</b>	<b>FUL/MAL/17/00763</b>
<b>Location</b>	The Friary Carmelite Way Maldon Essex
<b>Proposal</b>	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.
<b>Applicant</b>	Mr Derek Ford – Essex Housing, Essex County Council
<b>Agent</b>	Mr Steven Butler – Bidwells
<b>Target Decision Date</b>	31 October 2017
<b>Case Officer</b>	Yee Cheung
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	Level of Public Participation

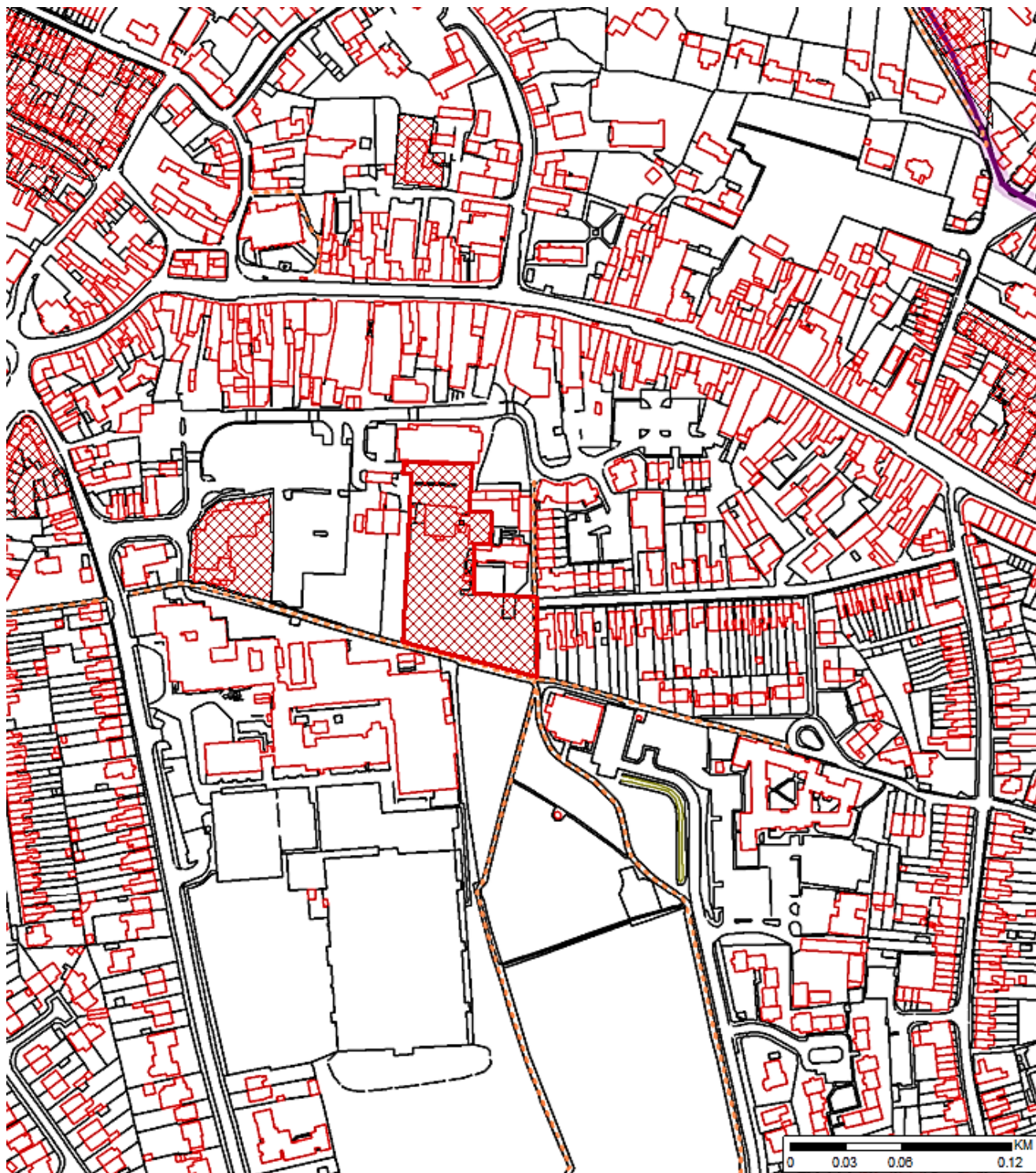
<b>Application Number</b>	<b>LBC/MAL/17/00764</b>
<b>Location</b>	The Friary Carmelite Way Maldon Essex
<b>Proposal</b>	Residential redevelopment for 28 dwellings comprising conversion of listed building to 7 apartments, demolition of unsympathetic 1960s extension and replacement with 2 townhouses, construction of new build development within the grounds to the south comprising 19 apartments, hard and soft landscaping and associated parking and infrastructure.
<b>Applicant</b>	Mr Derek Ford – Essex County Council Housing
<b>Agent</b>	Mr Steven Butler – Bidwells
<b>Target Decision Date</b>	26 September 2017
<b>Case Officer</b>	Yee Cheung
<b>Parish</b>	<b>MALDON NORTH</b>
<b>Reason for Referral to the Committee / Council</b>	This Listed Building Consent has been called in by Councillor B E Harker on the grounds of public interests

**1. RECOMMENDATION**

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

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

## 2. SITE MAP



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Maldon District Council 100018588 2014

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Scale: 1:3,000

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 08/01/2019

MSA Number: 100018588



### **3. SUMMARY**

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

- 3.1.1 The application site is located to the south of White Horse Lane within the centre of Maldon. The site is occupied by a Grade II Listed Building known as Friary East. Friary East was a private residence until it was purchased by Essex County Council in 1946. An extension on the eastern side was built in the 1960s which is used by the Adult Education Services. Friary East was listed in 1971. To the south east of the 1960s extension, a further building (now a pre-school) was constructed in the 1990s.
- 3.1.2 The site is bounded to the north by the Maldon Library. To the west, a listed brick wall which separates Friary East and Friary West. To the east and south eastern corner of the site it is bounded by a historic wall separating its garden and Chequers Lane, as well as the pre-school and the Adult Education Services building. To the south of the site are mature trees and hedges which partially screens the application site. This planting is held back by a high chain linked fence which has been erected on the southern boundary of the site. Beyond the site to the south is a public footpath and cycle path, The Plume Secondary School and the local playing field.
- 3.1.3 Access to the application site is via White Horse Lane and Carmelite Way to the north west of the site.
- 3.1.4 Based on the plans submitted, the proposal seeks the following:-
- Residential redevelopment for 28 dwellings including the conversion of the listed building to 7 apartments,
  - To demolish an unsympathetic 1960s extension and replace it with 2 townhouses,
  - To construct two buildings within the grounds to the south comprising 19 apartments, and
  - Hard and soft landscaping and associated parking and infrastructure.
- 3.1.5 In the original submission, the applicant proposed 30 dwellings including 1, 2 and 3 bedroomed units. The scheme was split into three distinct parcels comprising the conversion of Friary East to 9 flats and a new build development of 2 units to the east on the land occupied by the unsympathetic 1960s extension; this is referred to as “F1” by the Applicant throughout the submission. Seven affordable housing units would have been accommodated within a new-build block “F2”, located to the south of Friary East. 12 further units would have been in new-build block “F3”, located to the east of F2.
- 3.1.6 Through the process of the planning application and Listed Building Consent, the scheme has since been amended to 28 dwellings. Two units have been removed from the existing listed building Friary East reducing the number of units from 9 units to 7 and the quantum of development therefore has been reduced from 30 dwellings to 28 dwellings. No changes have been made to Blocks F2 and F3. From the submission, it is understood that one of the units in Block F2 will be ‘communal’ and be occupied by a person who will be on duty to assist the occupiers of the building.

Block	Dwelling Number	No. of Bedrooms	Tenure
F1 (Friary East and Town Houses)			
	FO 1	2 bed / 4 persons	Private
	FO 2	2 bed / 3 persons	Private
	FO 3	1 bed / 2 persons	Private
	FO 4	1 bed / 2 persons	Private
	FO 5	2 bed / 4 persons	Private
	FO 6	1 bed / 2 persons	Private
	FO 7	2 bed / 4 persons	Private
	FO 11 (town house)	3 bed / 6 persons	Private
	FO 12 (town house)	3 bed / 6 persons	Private
F2 (Comprising 7 units)			
	F.21	1 bed / 2 persons	Affordable
	F.22	1 bed / 2 persons	Affordable
	F.23	1 bed / 2 persons	Affordable
	F.24	1 bed / 2 persons	Affordable
	F.25	1 bed / 2 persons	Affordable
	F.26	1 bed / 2 persons	Affordable
Not numbered on Drawing No: 4197 PL 15 Revision B  This unit is numbered as F.27 in the submitted Unit Schedule by the Applicant	Unit 7 - (Ground Floor)  It is proposed that this unit is communal and to be occupied by the person who is on duty	1 bed / 2 persons	Affordable
F3 (Comprising 12 units)			
	F.31	2 bed / 4 persons	Private
	F.32	2 bed / 4 persons	Private
	F.33	2 bed / 4 persons	Private
	F.34	1 bed / 2 persons	Private
	F.35	2 bed / 4 persons	Private
	F.36	2 bed / 4 persons	Private
	F.37	2 bed / 4 persons	Private
	F.38	1 bed / 2 persons	Private
	F.39	2 bed / 4 persons	Private
	F.310	2 bed / 4 persons	Private
	F.311	2 bed / 4 persons	Private
	F.312	1 bed / 2 persons	Private

	<b>Total</b>	<b>No. of Units</b>
	1 beds	13
	2 beds	13
	3 beds	2
<b>Total of Units</b>		<b>28</b>

### 3.2 Conclusion

- 3.2.1 It is considered that the proposal would conflict with policies S1, D1, D3, H1, H3 and H4 of the Maldon District Local Development Plan (MDLDP) and as such should be refused unless material planning considerations indicate otherwise. The harm identified in reaching this opinion relates to the impact of the development on the character and appearance of the site, the Conservation Area and the setting of the listed building. It is considered that inadequate amenity space could be provided along with inadequate parking which would be served by a poorly formed access that might impact upon pedestrian and vehicular safety within the site.
- 3.2.2 Furthermore, no legal agreement has been submitted with regard to affordable housing and as such the proposal would contravene the aims of Policy H1 of the LDP and in this context the social benefits of the proposed development are reduced.
- 3.2.3 It is noted that the proposal does provide a few benefits that weigh in favour of the development. Social benefits would include the provision of small 1 and 2 bed units in accordance with Policy H2 which are welcomed in the District and the creation of jobs during the conversion of Friary East and the construction of the dwellings to the rear of the site. Further, the future occupiers of the site would be able to support the local services and facilities in Maldon Town in the long term.
- 3.2.4 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. The proposal would therefore be contrary to Policies S1, S8, D1, D3 and H4 of the LDP and Government advice contained in the National Planning Policy Framework (NPPF).
- 3.2.5 It is considered that the proposed development would be of detriment to the setting of the listed building and although the demolition of part of the existing buildings is acceptable, it is considered that the proposal is unacceptable overall as there is not an acceptable scheme for the replacement of the existing structures and this would therefore leave a void area that could detract from the existing building. The proposal is therefore contrary to policy D3 of the MDLDP and it is recommended that the application for listed building consent is also refused.
- 3.2.6 Therefore, the development proposal, for the reasons as set out in the officer report, is considered to be contrary to the requirements on the MDLDP and Government guidance contained within the NPPF and the National Planning Policy Guidance (NPPG). It is recommended that the application for 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 2018 including paragraphs:**

- 7-11 Achieving sustainable development
- 34 Development contributions
- 38 Decision-making
- 39-46 Pre-application engagement and front-loading
- 47-50 Determining applications
- 59-66 Delivering a sufficient supply of homes
- 73-74 Maintaining supply and delivery
- 91-95 Promoting healthy and safe communities
- 102-107 Promoting sustainable transport
- 122-123 Achieving appropriate densities
- 124-130 Achieving well-designed places
- 184-201 Conserving and enhancing the historic environment

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

- Policy S1 Sustainable Development
- Policy S2 Strategic Growth
- Policy S4 Maldon and Heybridge Strategic Growth
- Policy S5 Maldon and Heybridge Central Area
- Policy S8 Settlement Boundaries and the Countryside
- Policy D1 Design Quality and Built Environment
- Policy D2 Climate Change & Environmental Impact of New Development
- Policy D3 Conservation and Heritage Assets
- Policy E3 Community Services and Facilities
- Policy E6 Skills, Training and Education
- Policy H1 Affordable Housing
- Policy H2 Housing Mix
- Policy H4 Effective Use of Land
- Policy N2 Natural Environment and Biodiversity
- Policy T1 Sustainable Transport
- Policy T2 Accessibility
- Policy I1 Infrastructure and Services

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

- National Planning Policy Guidance (NPPG)
- National Planning Policy Framework (NPPF)
- Car Parking Standards
- Maldon District Design Guide (MDDG)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

- 5.1.1 The Council is now in a position where it can demonstrate an up to date deliverable supply of housing land for a period in excess of five years. This is a material consideration and means that any application for new development must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.1.2 There are three overarching objectives to sustainable development as defined in the NPPF. They are the economic, social and environmental objectives. The Local Development Plan (LDP) through the preamble to Policy S1 reiterates the requirements of the NPPF.
- 5.1.3 The application site is located within the defined settlement boundary of Maldon as defined by the Local Development Plan. Policy S8 is the strategic policy that would apply to this site, allowing development to be directed to sites within settlement boundaries to prevent urban sprawl beyond existing settlements and to protect the District's landscape. On this basis the general principle of development in this locality would be acceptable subject to other material considerations which will be discussed in the report below. These material considerations would include the design of development, the provision of affordable housing, the impact of the development on the character and appearance of the conservation area, the impact on the listed building, and the amenity of the neighbouring residential properties.

### **5.2 Housing Mix**

- 5.2.1 The NPPF is clear that housing should be provided to meet an identified need as set out in Paragraph 61 of the NPPF where it requires local authorities *'to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals'* and to plan for houses needed including *'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)'*.
- 5.2.2 The proposal would provide 13 x 1 bed units, 13 x 2 bed units, and 2 x 3 bed units (town houses) within the site. Policy H2 of the LDP contains a policy and preamble (paragraph 5.2.2) which when read alongside the evidence base from the Strategic Housing Market Assessment (SHMA) shows an unbalanced high number of dwellings of three or more bedrooms, with less than half the national average for one and two bedroom units. Policy H2 of the LDP encourages the provision of a greater proportion of smaller units to meet the identified needs and demands. The Council's updated Strategic Housing Market Assessment (SHMA), published in June 2014, identifies the same need requirements for 60% of new housing to be for one or two bedroom units and 40% for three bedroom plus units.



- 5.2.3 The Council is therefore encouraged in policy H2 to provide a greater proportion of smaller units to meet the identified needs and demands. The proposal provides 28 dwellings and comprises a mix of 1, 2 and 3 bedroom properties. 26 of the units would be 1 and 2 bedroom units whilst the remaining 2 units would be three bedroom townhouses. As 26 units proposed would have 1 and 2 bedrooms, it is considered that the proposal would meet the needs and demand identified in the SHMA and policy H2 of the LDP in terms of housing mix. This attracts some weight in the planning balance of the application.

### **5.3 Affordable Housing Provision**

- 5.3.1 Policy H1 of the Local Development Plan 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%.
- 5.3.2 The Applicant proposes to deliver specialist housing as part of their wider Essex Housing remit on part of the site in the form of 7 Learning Disabled units. The application site proposes 28 dwellings in total. This triggers the requirement for affordable housing under Policy H1 of the MDLDP 2014-2029. The required affordable housing mix based on the recommendations of the Maldon District Council Strategic Housing Market Assessment 2014 is as follows:-
- 80% smaller – 35% 1 bed & 45% 2 bed
  - 20% larger – 3 bed, 4 bed as required
  - 20% of all smaller affordable should be suited to meet needs of older people.
  - 1 and 2 bed may be increased to 90% where required and viable in cases where this enables the provision of homes for older people and is consistent with identified need.
- 5.3.3 Throughout the process of the application, the Council has been in continuous discussions with the Applicant regarding the provision of affordable housing on this site. Viability studies were submitted to the Council for assessment as evidence to show that the proposed scheme would be financially unviable if the Applicant enters into a S106 legal agreement with the Council to provide affordable housing on site. The applicant has therefore set out that they are not willing to enter a legal agreement pursuant to S106 of the Town and Country Planning Act 1990. It is however noted that 7 of the units are intended to meet specialist needs, but the intention of the applicant is for this to be controlled by themselves and not through a restriction of a planning permission.
- 5.3.4 While the Council supports the provision of housing to meet specialised needs in the District in line with the Council's current strategic requirements in accordance with Policy H3 of the LDP, it is important to note that this should not override the requirement to provide affordable housing which should be supplied as with general needs affordable housing. The Applicant, on several occasions, has advised they will not accept a Section 106 restriction relating to affordable housing as the proposed accommodation will be for local residents via their Nominations Agreement with the selected housing association.



- 5.3.5 The Council considers that without a legal agreement for the provision of affordable housing, it would be difficult for these units to be retained as ‘affordable’ and for ‘local residents’ in the Maldon District. Within the Applicant’s submission, it states that there is a ‘Buy-Back’ mechanism to address the unlikely event that the housing association is no longer in operation. There were suggestions to revert the units to general needs affordable rented housing should the housing association fails to operate but this was also declined by the Applicant. This does not give comfort to the Council that the proposal would benefit the District particularly in terms of social sustainability.
- 5.3.6 Policy requires a clear identified need for this type of accommodation that cannot be met elsewhere in the District. A letter from the Applicant dated 19 November 2018 prepared by Essex Country Council Adult Social Care states there is a need for specialist accommodation for people with learning disabilities in the District. Within this letter, the following points were made:-
- *‘There are presently 81 people with learning disabilities living in Maldon District who are currently known to ECC Adult Social Care.*
  - *Of these, there are 53 not already living in a supported living or residential setting who could move into new provision in Maldon if The Friary scheme is built.*
  - *It is important to note that these figures change as people move in and out of the County and are born / die. Furthermore, these figures are also dependent on people having an eligible need under the Care Act and are also subject to the choices of the adults regarding where they would like to live.*
  - *It is also important to note that there will also be people currently not known to ECC Adult Social Care including young people and adults who are being cared for privately at home. These individuals can often later become clients of ECC if their circumstances and / or care needs change and / or their informal carers are no longer able to continue to support them via the same arrangements’*
- 5.3.7 Based on the above letter submitted, it appears that there is some need. However there is a clear conflict within the proposal as the Applicant states the key goal is to deliver specialist affordable housing yet have undertaken viability studies to evidence why affordable housing cannot be provided on this site. A viability study was carried out for the original scheme for 30 units. The most recent viability appraisal follows changes to the scheme to reduce the number of units from 30 to 28. It is evident that reducing the number of units has made the project less viable but the Applicant has confirmed that the learning disability units would still be provided. Further, it is understood that the viability assessment has been carried out for 27 units instead of 28 units as the shared accommodation for the duty carer may not create any income stream. Irrespective of whether the development proposed has been calculated and assessed on the basis of 27 or 28 units, the Applicant is still unwilling to enter into a legal agreement with the Council to provide affordable housing. It is not considered that there has been evidence provided that there is a need for an additional number of this type of accommodation for residents of the District. Furthermore, the applicant would not be willing to restrict the occupancy to residents of the District or provide Maldon District Council with allocation rights. Therefore the proposal would fail to

comply with Policy H1 of the LDP. In this regard it is noted that the Council's Housing Team have objected to the proposal on the grounds that no affordable housing is proposed and whilst the unviability of the scheme is noted, they maintain their objection on the grounds that the delivery of affordable housing that is required to meet the needs of the District will not be forthcoming from this proposal.

- 5.3.8 In this case, the benefits of the development have to be weighed against the dis-benefits or the areas where the development is not compliant with the requirements of the Local Development Plan. Weight can be afforded to the overall housing mix that is policy compliant and the fact that the housing is intended to be of social benefit. However, the harm caused by the failure to deliver affordable housing which is demonstrated to be of substantial need and is required by policies of the Local Development Plan is considered to

#### **5.4 Design of Development**

- 5.4.1 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.

- 5.4.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF (2018). The NPPF states that:

*“The creation of high quality 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”.*

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account local design standards, style guides in plans or supplementary planning documents”.*

- 5.4.3 The above principle is also set out in the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make 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

5.4.4 The above should be read in connection with Policy H4 of the LDP. This states that *“all development will be design-led and will seek to optimise the use of land having regard to the following considerations:*

- 1) The location and the setting of the site;*
- 2) The existing character and density of the surrounding area;*
- 3) Accessibility to local services and facilities;*
- 4) The capacity of local infrastructure;*
- 5) Parking standards;*
- 6) Proximity to public transport; and*
- 7) The impacts upon the amenities of neighbouring properties.”*

5.4.5 It is also pertinent to note that in December 2017, the Local Planning Authority adopted the MDDG which is an adopted Supplementary Planning Document and is now a key mechanism for the delivery of design quality within the district. This new guide, not only looks at overall layout and form, but also the individual characteristics of the natural and built environment. This document is now a material consideration in the assessment of all planning applications.

5.4.6 Friary East and Friary West are two similar, substantial early 19<sup>th</sup> century brick houses with ancillary buildings and structures including a 19<sup>th</sup> century stable block to the east of Friary East and 18<sup>th</sup> century walls (some of which contain historic fabric from the 13<sup>th</sup> century Carmelite Friary). Both Friary East and Friary West retain substantial plots as originally intended for formal gardens and panoramic views.

5.4.7 Due to the scale and nature of the applications, the Conservation Officer has been consulted and the following advice was given regarding the development proposal.

*When constructed, both Friary East and Friary West had their principal elevations facing Longfield with far reaching views across their landscaped formal gardens to open agricultural fields with views of Purleigh and the Estuary beyond. Longfield retains some openness as an area of POS. Friary East is still bounded by the historic Friary Wall on its eastern boundary running parallel with Chequers Lane and the cycle/footpath on its southern boundary. The western boundary is a brick wall separating Friary East from Friary West. The stable block remains and the Friary Walled Garden containing an orchard of fruit trees and shrubs is managed by a Friends Group. The southern boundary of the Friary East was always intended to remain a soft landscaped boundary when Friary East was constructed and there is no hard boundary only a post and mesh fence where soft landscape is visible through the mesh and providing a tree canopy over the cycle/footpath. The OS Map 1873 shows a small structure in the south east corner of the site and this may have been a small lodged entrance or outbuilding for gardeners managing the formal gardens.*

*Friary East and Friary West were built on the former site of a Carmelite Friary. Monastic buildings were usually located away from main settlements because of the desire for isolation through the Order or House. The Carmelites however, were considered an ‘urban’ Order and were located on the periphery of the town. Maldon’s history is associated with the 13<sup>th</sup> century Carmelite Friary in street names: White horse Lane, Carmelite Way, Friary Fields Friars Gate, Chequers Lane and*

*remaining structural elements including the Friary Walls and the Friary Walled Garden. Interpretation boards and public art, contributed to by ECC, MDC and English Heritage through the Conservation Area Partnership Scheme 1998-2003, can be seen at Friars Gate between Marks & Spencer and M & Co.*

*Much has changed in the 20<sup>th</sup> century mainly related to the expansion of the town centre and secondary school and provision of infrastructure, services and housing to support growth. Friary East and Friary West have retained their historic context alongside the former stables, Friary Walled Garden and Friary Wall enclosure. The site's hard physical boundaries and enclosure do not allow permeability through the site at present.*

- 5.4.8 To the east of Chequers Lane, modern housing fronts the footpath / cycle way and the Friary Wall that is modest two story terraced housing. Similarly, Tenterfield Road is made up of predominantly late 19<sup>th</sup> and early 20<sup>th</sup> century terraced and semi-detached housing facing the street at right angles to the Friary Wall and Chequers Lane.
- 5.4.9 With regard to the design of the development, the conversion of the listed building to a residential use (7 x 1 and 2-bed units) and the development of 2 new townhouses adjacent to the listed building gives rise to design considerations for access and layout for supporting facilities and services for future residents including access to residential amenity space, car parking (resident and visitor), boundary treatments for privacy and security, public and private lighting, cycle parking, outdoor bin storage and refuse collection points etc. There is also consideration of Building Regulations and design in terms of sound separation, fire safety and energy efficiency which will be discussed later on in the report.
- 5.4.10 The application site is within the Maldon Conservation Area where consideration of the impact on character and appearance is a statutory requirement. It is considered that the Conservation Area will be affected by the new development adjacent to the listed building and within the grounds of the listed building as well as through the impact of supporting facilities and services for the two new development blocks accommodating 21 new apartments (as for the 7 flats). The integration of new development to the context (natural, built and historic environment) is the main design consideration.
- 5.4.11 In terms of layout, it is important to note that access dictates layout. The proposed access effectively divides the existing grounds to the rear of Friary East in two with the two proposed townhouses and one of the proposed apartment blocks on the east of the access route and Friary East and the other proposed apartment block to the west of the access road.
- 5.4.12 The two townhouses proposed will be located to the rear of the stable block that is an outbuilding to Friary East. The layout of the townhouses has no relationship to the historic stable block or Friary East to which the stable block is subservient in terms of scale and appearance. Whilst the Applicant states that the demolition of the 1960s structure would be an improvement to the listed building and its setting, the submission does not go on to explain how the replacement with two townhouses, car parking, boundaries and private amenity space (plus access drive) would be an improvement to the listed building and its setting.

- 5.4.13 In support of the application, a Landscape Strategy Report dated March 2018 (refer: WWA/1647/Doc/601 P03) has been submitted. To the rear of the site, there are mature trees and hedges at present, the car parking spaces proposed to the rear of the two blocks of flats would mean the removal of some existing soft landscaping. This would ultimately and irreversibly change the character and appearance of the site with a car dominated frontage on the southern boundary when viewed from the public open space at Longfield. It is important to note that Chequers Lane and the designated cycle route that runs east west from America Street to Fambridge Road along that southern boundary are important vehicle free areas and this abrupt change in character imposed on the existing character would create a visible urban edge of a large parking court serving two blocks of flats. Rear parking courts are an urban feature and should be designed appropriately. In this instance, it is considered that the large area of hardstanding located on the edge of the site would be inappropriate as it would result in a car dominated development, contrary to policy D1 of the LDP. It is considered that any soft landscaping proposed is unlikely to provide an acceptable level of screening this southern part of the site, which is considered to be essential given the historic context that is set out above.
- 5.4.14 In terms of appearance and layout, two blocks of flats are proposed within the grounds and setting of the listed building. The proposed blocks of flats are utilitarian and urban in appearance and limited in architectural features, thereby representing built form that is of minimal visual interest and does not benefit the conservation area. Based on the Design and Access Statement Submitted, it is understood that Blocks F2 and F3 will be constructed using facing buff and red brickwork with coping details to emphasis the horizontal edges of the two buildings. Coupled with the necessary large car parking court to the south of the site, it is considered that the overall development is completely out of keeping with its immediate setting and fails to relate to the established character or its wider surroundings. The two flatted blocks providing a total of 19 units (F2 and F3) in the rear grounds on the southern boundary appear awkward, contrived and illogical in terms of layout and scale and bears no relationship to the existing grain of development and established settlement pattern to the east and west of the application site. This is considered to be contrary to policy H4 which 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.”*
- 5.4.15 With regard to the scale of the development, it is considered that the two blocks of flats would appear disproportionate with its site and surroundings in relation to the current buildings on the site, the defined landscape area, the established grain and settlement pattern next to the site. Friary East, the listed building, is proportionally scaled in height and mass within its defined boundaries. In this instance, the two proposed development blocks showing a larger footprint and mass than Friary East would overwhelm the listed building when viewed within the wider context.
- 5.4.16 The residential blocks and formal gardens are considered to be at odds with the existing appearance of the site. The two blocks of flats at the rear of the site would be highly visible in public views from Chequers Lane and Longfield. It is considered that the scheme, if approved, would create a significant impact on the existing appearance of the site and the relationship of the new structures with Friary East and existing buildings on Chequers Lane and Tenterfield Road. Further, the lack of connectivity and permeability through the site, other than the future occupiers of the

site, would fail to create a cohesive development, contrary to the aims of the NPPF where it seeks to promote healthy communities. It is also considered that the south part of the site, would be unduly dominated by hardstanding which would be visible from the public footpath to the south of the site and create a hardstanding dominated environment to the detriment of the character of the area.

- 5.4.17 For these reasons it is considered that the development proposal, when viewed as a whole, would conflict with Policies S1, D1 and H4 of the LDP, the MDDG, and Government advice contained in the NPPF.

## **5.5 Impact on Listed Building and the Conservation Area**

- 5.5.1 Having considered the sensitivity of the site, the Conservation Officer has been heavily involved with the Listed Building Consent application. The following comments were given by the Conservation Officer:

*Friary East, the subject of this application, and Friary West are two substantial Georgian brick mansions of a similar style, both listed at grade II. The mansions are of a classical style that is typical of the period and have principal elevations of tuck pointed grey gault brickwork facing south onto gardens. They were both built early in the 19th century, but by separate owners, on the site of the Tudor Harris Mansion which, in turn, had been built upon the site of the medieval Carmelite Friary. The garden walls of the two Georgian mansions are also Grade II listed and appear to incorporate some brick and stone from the medieval and Tudor structures which formerly occupied the site. The 19th-century red brick outbuildings to the east of Friary East are also Grade II listed. The site falls within the Maldon Conservation Area.*

*Friary East was a private residence until it was purchased by Essex County Council in 1946. An extension on the eastern side was built in 1963. The building was listed in 1971. To the south east of the 1960s extension, a further building (now a pre-school) was constructed in the 1990s.*

*Friary West was built by Benjamin Baker, a surgeon. He purchased the site in 1801/2 and there is a date plaque on his mansion of 1803. While this house is smaller than Friary East, it arguably possesses a greater degree of finesse, achieved through the use of recessed surrounds to many of the windows. Given the stylistic similarities between the two mansions it seems highly likely that the same contractors were involved, albeit working for separate clients.*

*Friary East was built by Thomas Lee, a local farmer and magistrate. He purchased the eastern part of the Friars estate in 1802 and had started demolishing the remains of the Tudor mansion early in 1803. In several respects, Lee's mansion appears to be an exercise in one-upmanship over the slightly earlier neighbouring house Friary West. It is larger, it has a grander portico and it has gault brickwork on its east elevation as well as its south elevation.*

*In spite of the poor treatment which Friary East has received throughout the second half of the 20th century, much of the original layout and many of the architectural features survive. Most of the windows are in the original style, although only around half a dozen are likely to be original. There is a particularly good survival of*

*cornicing, picture rails, skirtings, door surrounds and doors. There are four different types of cornice on the ground floor and three different types on the first floor. The level of embellishment reflects the original status of each room. Particularly notable, is the use of delicately detailed arches, in the manner of Soane, which would have framed views down the corridors to dramatic effect (an effect somewhat eroded by later screens and partitions).*

*In terms of historic interest, the house is an expression of the great wealth amassed by farmers as a result of the grain embargos imposed during the Napoleonic Wars. It is noted that the cornice in the Dining Room is decorated with heads of wheat, possibly in reference to the source of Lee's wealth.*

- 5.5.2 The Conservation Officer agrees with the conclusion in the heritage appraisal that the building has high architectural value. The use of gault bricks on the polite elevations and red bricks on the service elevations is notable. The architectural quality and scale of the building is impressive. The Victorian illustration demonstrates how the two mansions once appeared very striking in long views from the south, though it is recognised these views are now largely hidden by trees and The Plume Secondary School.
- 5.5.3 While the setting of Friary East has been eroded to some extent by the buildings erected within the grounds in the 1960s and 1990s, the survival of the (now separately listed) 19th-century outbuildings and the largely undeveloped gardens are reminders of its original character. Unlike Friary West, Friary East retains its original garden, partly enclosed by the original (and separately listed) boundary wall. The heritage appraisal recognises the importance of the garden to Friary East's setting, even in its overgrown state. It is suggested that the significance of the listed building derives mainly from its age, history as a house built by a wealthy local farmer, impressive scale, high architectural quality, reasonably good state of preservation despite some significant alterations, and the setting provided by the original garden to the south.
- 5.5.4 The proposal seeks to subdivide and convert Friary East into 7 self-contained flats. The works would include the removal of the modern extensions from the eastern elevation, and the restoration of fenestration on the western elevation on the exterior of the listed building. While the number of units has been reduced from 9 to 7 to enable a more sympathetic layout with a greater level of details submitted when compared to the initial scheme for 9 units, there will still be some loss of historic fabric to the building.
- 5.5.5 The Conservation Officer advises that the conversion of Friary East to several flats will inevitably cause some harm to the building's significance, because the internal layout will no longer flow in the manner that was originally intended. However, the amended scheme is the result of considerable efforts to preserve the volume of original rooms and to preserve original doorways in-situ (even where they are being sealed). The revised scheme incorporates further elements of enhancement to weigh in its favour, amongst the most significant being the restoration of the main stairs. Externally, the removal of the modern extensions from the eastern elevation, and the restoration of fenestration on the western elevation would represent clear enhancements to the listed building. In this respect, the Conservation Officer has considered that, on balance, the degree of harm in this instance is moderate and, is



outweighed by the benefits of getting the listed building back into use, and the various elements of enhancement and restoration now incorporated as part of the scheme.

- 5.5.6 With regard to the proposed townhouses that would replace the 1960s range to the east side of the listed building, the Conservation Officer has been re-consulted on the amended scheme. Previously, the Conservation Officer had advised the following:-

*‘The 1960s range is clearly of no heritage value, and there is no objection to the loss of it. Replacing part of it with a single-storey structure which is more sympathetic to the setting of the listed buildings is likely to be achievable. The two-storey flat-roofed houses which have been proposed will appear too imposing – Not just in relation to the house but also the listed outbuilding. It is likely to cause more harm to the setting of the listed buildings than the current structure’.*

- 5.5.7 The amended plans for the townhouses shows that a roof terrace has been incorporated into the design to provide additional amenity space for the future occupiers of the new build. It is noted that the terraces are positioned towards the centre of the roof top and would not appear prominent when viewed from the public domain. While the revised design is considered an improvement towards the provision of amenity space for the townhouses, the Conservation Officer’s view is that the townhouses are boxy in appearance. The height of the townhouses would be greater than the existing 1960s range and as such the development would appear discordant, awkward and overbearing when viewed against the listed building and is likely to cause more harm to the setting of the listed buildings than the current structure.
- 5.5.8 In relation to the proposal to build flats within the garden of Friary East, as described above, much of the listed building’s significance derives from its identity as a substantial Georgian mansion with a large garden and ancillary historic outbuildings. The heritage appraisal recognises the importance of the garden to Friary East’s setting, even in its overgrown state. It is considered that the proposed residential units within the historic garden would detract from the settings of Friary East and Friary West.
- 5.5.9 It is noted that the use of good quality gault bricks would reference the Georgian façade of the listed building. However, the form and scale of the buildings proposed would appear alien and incongruous in this context. The scale and box-like form of the south-eastern 3-storey range would appear particularly jarring when viewed from Tenterfield Road and Chequers Lane, to the detriment of this part of the conservation area. As part of the submission, 3-Dimensional Drawings (3D) were included to support of the proposal. The 3D drawings show the development and its close proximity to the listed wall, Chequers Lane and Tenterfield Road appearing cramped, overwhelming and out of character in its wider setting.
- 5.5.10 The Conservation Officer has also raised concerns regarding the proximity of the three-storey block being built so close to the boundary wall as the development could cause the listed wall to destabilise. It is noted that a letter prepared by a Structural Engineer has been submitted to support the application and it suggests that the construction of the flats should have no impact upon the structural stability of the listed boundary wall. The Conservation Officer is not confident by this submission as the development involves lowering of the ground levels within the site. Further, no

cross-section drawings have been submitted to demonstrate the varying ground levels and the leaning of the wall.

- 5.5.11 In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest which it possesses. The Conservation Officer has assessed the proposal and does not consider that the development would be consistent with that objective. Listed building consent is required for the removal of the attached structures at the east side of the primary listed building. The removal of the structure is not objected to in itself, but 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. Although the partial demolition could be supported if a scheme is in place to replace the structures, it is considered that the unwarranted demolition has limited wider benefits that outweigh the potential unresolved situation. Therefore the proposal is contrary to the guidance contained within the NPPF and policies D1 and D3 of the MDLDP.
- 5.5.12 Further, 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. For the reasons outlined above, the Conservation Officer does not consider that the development would accord with that objective also. As such, the proposal would be contrary to Policy D3 of the LDP and Government advice contained within the NPPF.
- 5.5.13 The Conservation Officer's view has also been supported by The Georgian Group and Maldon Society. Both bodies have advised that the proposal would cause harm to the significance of Friary East through the harm to the legibility of the building's historic plan form and changes to its setting.

## **5.6 Impact on Residential Amenity**

- 5.6.1 Policy D1 of the LDP advises that any development should protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight and that any backland / infill development should not result in unacceptable material impact upon the living conditions and amenity of nearby properties. This is supported by section C07 of the MDDG (2017).
- 5.6.2 Letters of representation were received concerning the loss of privacy and overlooking primarily from the proposed residential blocks scheme. The block of flats comprising of 7 units would be two-storey in height and located to the south west of the site (F2). It is noted that the nearest windows on the western flank wall would be small windows where two windows would be serving bathrooms to two flats and one would be a secondary window serving a living room. A condition can be imposed to ensure that these windows would be obscure glazed should the application be approved to protect the existing occupiers at Friary West from an unacceptable loss of privacy. It is noted that there will be first floor windows proposed on the north elevation, the closest window would be located approximately 35 metres away and serve a bedroom. Having considered the distance between the new build and the

existing occupiers at Friary West, it is considered the proposal would meet policy requirement as contained within Policy D1 of the LDP.

- 5.6.3 The residential block located to the south east of the site comprising of 12 units would be three-storey in height (F3). It is noted that windows are proposed on the ground floor, first floor and second floor of the new build. These windows are all secondary windows serving dining rooms, living room and kitchens and as such can be conditioned to be obscure glazed to protect the amenity of the existing occupiers at No. 83 Tenterfield Road should the application be approved. While there are windows proposed on the north and south elevation of the building, it is considered that their position on the new build, would not impact on the loss of amenity to neighbouring residential properties to a significant degree to warrant the refusal of the application on these grounds.

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

- 5.7.1 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.
- 5.7.2 The Council's adopted Vehicle Parking Standards 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.
- 5.7.3 In the Maldon District Vehicle Parking Standards Supplementary Planning Document (VPS, 2018), it 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 advises that a minimum of one parking space per dwelling would be required but there is no requirement to provide visitor parking spaces. In support of the application, a Transport Statement prepared by Phil Jones Associates dated July 2017 was submitted to accompany the application. The Council accepts that the site is sustainable in terms of accessibility in accordance with Policy T1 of the LDP.

- 5.7.4 Based on the plans submitted, 28 parking spaces are proposed in total. It is noted that the existing 20 spaces at the northern end of the site (between the application site and Maldon Library) would be retained for use by the other surrounding Essex County Council related functions and would not be affected by this development proposal.
- 5.7.5 Each town house (FO 11 and FO 12) will have its own garage for vehicle parking measuring 2.5 metres x 5 metres. The plans submitted shows that 20 car parking spaces, including two disabled bay parking spaces are proposed to the southern part of the site (rear of Block F3). A further 5 car parking spaces and one disabled bay parking space are proposed to the west side of Block F3. A total of 26 spaces will be provided for the future occupiers of the site. Each parking bay measures 2.4 metres x 4.8 metres and the disabled bay parking space measures 3.3 metres x 6 metres.
- 5.7.6 In the VPS 2018, it states that:
- Parking spaces should measure 2.9 metres x 5.5 metres;
  - Disabled parking bays must be 3.6 metres wide; and
  - The dimension of garage / carport size standards should be 3 metres x 7 metres
- 5.7.7 Based on the submission, it is considered that the proposed development would not be served by sufficient car parking of adequate size to comply with the VPS 2018. The proposal would therefore be served by inadequate parking which would have the potential to cause unsafe parking, to the detriment of highway safety, contrary to Policy T2 of the LDP.
- 5.7.8 With regard to access to the site, all modes of transport would be via the existing car park (20 spaces) at Carmelite Way behind the Maldon Library. An access point is proposed extending from the existing car park into the site between Friary East and the stable block. It extends north to south through the grounds culminating in a widening to another car park between the two proposed new build blocks laid out in an 'L' shape for 26 car parking spaces.
- 5.7.9 It is noted that the Essex Design Guide states that the minimum width of a Mews Court (the lowest intensity road listed within the Essex Design Guide) should have a minimum carriageway width of 4.8 metres. One way streets are expected to have a minimum width of 3.7 metres. In this context it is considered that the access road within the site, which would measure 4 metres wide for a length of 50 metres would not represent good design and would result in cars being likely to be unable to pass. The necessity to reverse if meeting a vehicle travelling in the opposite direction is therefore likely to occur regularly and this, in turn, might be likely to impact on pedestrian and vehicular safety within the site. This is especially the case given the number of vehicle movements that are likely to be associated with the proposed development and the 26 parking spaces located within the south part of the site. Whilst it is noted that the Highway Authority has raised no objection, it is considered that this does not prevent the Local Planning Authority raising an objection in relation to this matter, especially as the access is unlikely to be adoptable and therefore would fall outside the jurisdiction of the Highway Authority.
- 5.7.10 Maldon Town has an established character of intimate lanes and alleys for pedestrians and cyclists that connect the back lands to both sides of the High Street (Brights Path, Dolphin Cut, Mill Close, Kings Head Path, Friars Gate, Chequers Lane, Church Lane,

Coach Lane etc.) and the opportunity exists to create an access for pedestrians and cyclists on the southern boundary through the site to the rear of the High Street via Carmelite Way. However, the proposal would, if approved, result in an area of hardstanding forming a large parking court. The car parking spaces which run parallel to the southern boundary of the site would create an impermeable barrier to any movement through the site for pedestrians and cyclists. As there is no through traffic across the site to provide connectivity from north to south, the development could be considered as a cul-de-sac. The Urban Design Officer has considered the proposal and considers that proposed vehicle access route running north to south through the rear grounds appears inimical to the prevailing road network in the vicinity of the application site that is east-west (High Street, Whitehorse Lane, Friary Fields and Tenterfield Road).

- 5.7.11 The Highway Authority has been consulted regarding the development proposal and has raised no objection subject to condition in relation to Residential Travel Packs to be provided for the future occupiers of the site. This can be conditioned should the application be granted.

## **5.8 Private Amenity Space**

- 5.8.1 Policy D1 of the 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 50m<sup>2</sup> of amenity for 1-2 bedroom dwellings; and 100m<sup>2</sup> of private amenity space for dwellings with three or more bedrooms. In flatted developments, 25m<sup>2</sup> would be required for each unit.
- 5.8.2 The proposal shows small pockets of communal spaces to the south of Block F2 (approximately 100m<sup>2</sup>) and to the north east of Block F3 (approximately 105m<sup>2</sup>). A formal landscaped area measuring approximately 775m<sup>2</sup> is also proposed between F1 (Friary East) and F2. In the MDDG, it states that in a higher density development schemes where houses face, backing on to, or adjacent to a substantial area of well landscaped and properly maintained communal space, the private garden area could be reduced to 25m<sup>2</sup>. It is considered that the total of the formal landscaped area and small pockets of communal spaces would meet policy requirement of D1 and the MDDG. Regardless whether the units are 1 or 2 bedrooms, if the communal garden areas are divided up equally between the future occupiers of the site, each unit would benefit from an area of approximately 38m<sup>2</sup>. In this respect, the proposal broadly complies with Policy D1 of the LDP and the MDDG. This calculation does not include the 2 x 3 bed townhouses located to the east side of Friary East.
- 5.8.3 Each townhouse would have an area of 15m<sup>2</sup> to the rear of the property and a roof terrace of 18.8m<sup>2</sup>. While the roof terrace would increase the amenity area for the future occupiers of the property and is an improvement to the original submission where only 15m<sup>2</sup> of amenity space was being provided, the Council has reservations regarding the limited and unusable amenity space provided for the 2 x three-bed units which are likely to be family houses. Therefore the proposal would fail to accord with Policy D1 of the LDP and the MDDG.

## 5.9 Landscaping

- 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 To achieve this development proposal, the submissions indicate a large part of the existing garden area will be stripped of its vegetation and either built on or hard surfaced. The Landscape Strategy Report identifies that 41 trees are scheduled for removal including 9 important trees. Extensive car-parking is proposed to be provided largely within the canopy spread of the existing trees at the bottom of the garden. On the Landscape Layout Plan-South (Drawing No: wwa\_1647\_LL\_101 Revision T02) and the Planting Plan (Drawing No: wwa\_1647\_LP\_301 Revision T03) submitted, it shows a narrow strip of soft landscaping to be retained between the parking court and the southern boundary of the site with several bird and bat boxes proposed a long with dead wood habitat creation and wildlife friendly landscaping. Concerns have been raised regarding the depth of this piece of land which measures approximately 1.6 metres (at its narrowest point) and 6.5 metres (at its widest point) and how it would environmentally benefit the development proposal considering that the future occupiers of the site could potentially park their vehicles close to the southern boundary of the site. The proposal would have both a negative amenity and biodiversity effect, and could create future conflict between mature trees, wildlife, and car-users through leaf fall and bird and bat droppings.
- 5.9.3 The existing tree belt and its associated understorey vegetation provides an informal screen between the footpath outside the southern boundary and the site would be significantly reduced, potentially affecting the experience of all future users along this footpath. Little room is left along the eastern boundary wall to soften the development proposals along which will be three storeys in height and is likely to be visible from the eastern footpath The Chequers.
- 5.9.4 The application proposes the severance of Friary East from its historic stables and courtyard through inserting a vehicle access between the two and developing the lower half of The Friary garden. This not only creates an asymmetry in the remaining garden space but also adversely affects the setting of the building by cutting the existing gardens in two. The Heritage Appraisal states: *'The grounds and gardens of Friary East itself contribute to the building's setting. Although the grounds have been divided up and new buildings have been constructed to the north of the gardens, the gardens remain largely intact' and 'The gardens continue to contribute to the setting of the listed building despite their overgrown and somewhat abandoned state'.* And *'The more formal lawn area to the south of the building can be read by the location of planting and it is from this location where the south elevation of the building is best experienced.'* Inserting so much development at the bottom of the existing garden, as well as between Friary East and the Stable Block, severely restricts the remaining garden space for a building of this size and negatively affects both its setting and its relationship with the stable yard. Policy D1 'Design Quality and Built Environment' of the LDP identifies 'landscape setting' as a key factor in good design and that

development should *'contribute positively towards the public realm and public spaces around the development'* and *'contribute to and enhance local distinctiveness'*. The proposal does not appear to meet this policy. Further, the proposal would also fail to accord with Policy H4 of the LDP as the development would involve the loss of important landscape.

## **5.10 Archaeology**

5.10.1 The Essex Historic Environment Record (EHER) shows that the proposed development has the potential to impact on known archaeological remains, and has also been identified by the Desk-based Assessment submitted with the application. The proposed development is located in the heart of the historic town of Maldon (EHER 7719). The immediate vicinity comprises the grounds of the medieval Carmelite Friary (EHER 7728-9). The two Friary buildings (East and West), and the accompanying wall are Listed Grade II and are early 19<sup>th</sup> century in origin. The trial-trenching report submitted with the application has identified the presence of Iron Age and post-medieval features on the site. However not all of the proposed development area has been examined, and there remains the possibility of further archaeological deposits being present on the remainder of the site.

5.10.2 Archaeological deposits are both fragile and irreplaceable and any approved development on site should therefore be preceded by a programme of archaeological investigation which should be secured by an appropriate condition attached to any forthcoming planning consent. It is recommended that if this proposal is approved that a full archaeological condition is attached to the planning consent. This would be in line with Government advice given in the National Planning Policy Framework Paragraphs 184-192.

## **5.11 Ecology regarding development within the zone of influence (ZoI) for the Essex Coast RAMS**

5.11.1 Natural England has produced interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. The European designated sites within MDC are as follows: Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The combined recreational 'Zones of Influence' of these sites cover the whole of the Maldon District.

5.11.2 Natural England anticipate that, in the context of the Local Planning Authority's duty as competent authority under the provisions of the Habitat Regulations, new residential development within these Zones of Influence constitute a likely significant effect on the sensitive interest features of these designated site through increased recreational pressure, either when considered 'alone' or 'in combination'. Residential development includes all new dwellings (except for replacement dwellings), HMOs, student accommodation, residential care homes and residential institutions (excluding nursing homes), residential caravan sites (excluding holiday caravans and campsites) and gypsies, travellers and travelling show people plots.

5.11.3 Prior to the RAMS being adopted, Natural England advise that these recreational impacts should be considered through a project-level Habitats Regulations



Assessment (HRA) – Natural England have provided a HRA record template for use where recreational disturbance is the only HRA issue.

- 5.11.4 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that the development could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure.
- 5.11.5 As the proposal is for less than 100 houses (or equivalent) and not within or directly adjacent to one of the designated European sites, Natural England would not provide bespoke advice. However, Natural England’s general advice is that a Habitats Regulations Assessment (HRA) should be undertaken and a ‘proportionate financial contribution should be secured’ from the developer for it to be concluded that the development proposed would not have an adverse effect on the integrity of the European sites from recreational disturbance. The financial contribution is expected to be in line with the Essex Coast RAMS requirements to help fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)) targeted towards increasing the site’s resilience to recreational pressure and in line with the aspirations of emerging RAMS.
- 5.11.6 To accord with Natural England’s requirements, a Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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, as follows:

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

Is the development within the zone of influence (ZoI) 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 the 28 units within the plot**

HRA Stage 2: Appropriate Assessment - 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**

Summary of Appropriate Assessment

As a competent authority, the local planning authority concludes that the project will not have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development proposed. Based on this and taking into account that Natural England’s interim advice is guidance only, it is not considered that mitigation would, in the form of a financial contribution, be necessary in this case.

## Conclusion

Notwithstanding the guidance of Natural England, it is considered that the likely impact of the development of the scale proposed, in this location would not be sufficiently harmful as a result of additional residential activity to justify a refusal of planning permission

### **5.12 Other Material Considerations**

#### Essex Housing

5.12.1 The Applicant is Essex Housing (EH). Essex Housing is a new function of Essex County Council which has been set up to work with its public-sector partners to bring forward surplus land / assets to address housing needs across Essex. The applicant states that the development will take into account the affordable accommodation needs of the local area and that any proceeds from the development of the Friary East site would be reinvested into the provision of public services, for the maximum benefit of the County's residents and the public purse. The applicant also states that the delivery of the range of affordable accommodation on the scale envisaged by Essex Housing would not be possible if this surplus publicly owned land were simply sold for development in the open market.

5.12.2 Whilst the above is noted, it is considered that the applicant should be treated the same as any other and the failure to enter into a suitable Section 106 agreement is not overcome by virtue of the stated intentions of the applicant.

#### Loss of Adult Learning Centre

5.12.3 As part of the application submission, the Applicant has provided some details regarding the use of Friary East. Friary East was used for Adult Community Learning (ACL) until 2014 when the facility was relocated to the adjoining space above Maldon Library. The facility's relocation forms part of a County-wide redesign to the service which is seeking to provide, amongst other matters:

- A streamlined structure and process to the ACL programme;
- Improved financial performance; and
- Improved quality of service.

5.12.4 During ACL's operations at Friary East the layout was difficult to facilitate full disabled access and provided spaces which were not well-suited to current teaching requirements. As part of the redesign and to improve the quality of service for its customers the decision was taken by ECC to relocate the ACL function into adapted modern office space above the Maldon Library once the social services teams had been relocated to Chelmsford. As such, this community service is not lost.

#### Essex Country Fire and Rescue Service (ECFRS)

5.12.5 The ECFRS has advised that the proposal would be considered an excessive distance to the nearest statutory free hydrant No: 46/739) which is located to front of the library. As such, it would necessary to install an additional fire hydrant within the proposed site.

- 5.12.6 Further, if a fire appliance is unable to gain access to within 45 metres of all parts of a new dwelling, as required by the Building Regulations 2010 Approved Document, an alternative solution may be required such as an Automatic Water Suppression System (AWSS) or dry-rising fire main incorporated into the building design.
- 5.12.7 The above recommendation can be dealt with by imposing an informative should the application be approved to notify that the above has to be adhered to.

#### Case Studies

- 5.12.8 In support of the planning application and Listed Building Consent, the Applicant has submitted details of other schemes that have been approved by other Local Planning Authorities in Essex namely Chelmsford City Council and Brentwood Borough Council. Each case is considered on its own planning merits and circumstances are different in each case. Those approved applications would have been determined against the Development Plan Policies of the aforementioned Councils.
- 5.12.9 This proposal has been considered on its planning merits and is determined against the Council's own Local Development Plan policies. Therefore, the fact that a proposal is found acceptable by one Local Planning Authority does not prejudice the ability of this Local Planning Authority to assess the proposal on its own merits. Further, it is important to note that the planning applications that were referred to by the Applicant did not include the conversion of a Grade II listed building and were not within the grounds of a listed building. This is material consideration that the Council has to also consider when determining the development proposal.

#### Foul Water and Surface Water

- 5.12.10 Anglian Water and the ECC SUDs Team were both consulted. No objections were raised and advised conditions to be imposed should the application be approved.

#### Positive and Proactive

- 5.12.11 During the process of the planning application and Listed Building Consent, the Council has had numerous meetings, site meetings, and email correspondences with the Applicant and the Council. While there has been some improvement to the scheme such as reducing the number of units from 30 to 28 units and the provision of a roof terrace to each of the townhouses. Other issues that have been highlighted in the officer report are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified above and for this reason an approval to the scheme has not been possible in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Positive and Proactive Statement

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

- **LBC/MAL/99/00947** - Proposed installation of a disabled platform lift. Granted Listed Building Consent: 2 February 2000
- **ESS/MAL/14/00952** - Listed Building Consent for Rebuilding and reinstatement of existing boundary brick wall. Granted Listed Building Consent: 17 July 2015
- **ECC/MAL/05/00958** - Proposed extension and internal alteration to provide new reception foyer and accessible gym facilities. Approved: 8 September 2017

## 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><u>Object:</u></p> <ul style="list-style-type: none"><li>• The proposal would result in an awkward back-land development, overdevelopment of the site and would be out of keeping in this sensitive area.</li><li>• The proposal jeopardizes the historical context of the existing Listed Building.</li><li>• The proposal, by reason of its scale and bulk, would result in an imposing and obtrusive development.</li><li>• Concern about the proposed limited access.</li><li>• The site had not been earmarked for development in the approved LDP</li><li>• By their own admission, the applicants state that the development will be detrimental to the amenity of Friary West.</li></ul>	Noted in the report

### 7.2 **Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
ECC Highways	No objection to the proposal subject to	Noted in the report

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	condition and informative	
Essex County Fire and Rescue Service (Water)	No objection, advised that the proposal would be excessive distance to the nearest hydrant. An additional hydrant would need to be installed on site	Noted in the report
Essex County Fire and Rescue Service (Access)	Access to site appears satisfactory and all works carried out on site must comply with the relevant requirements of the Building Regulations	Noted in the report
Essex and Suffolk Waters	ESW do not have any apparatus that would be affected by the proposed development	Noted in the report
Anglian Water (AW)	<p>No objections - The foul drainage from this development is in the catchment of Maldon Water Recycling Centre that will have available capacity for these flows</p> <p>The preferred method of surface water disposal would be to a sustainable drainage system (SUDS)</p>	Noted in the report. ECC SUDs Team has been consulted and raises no objection subject to conditions being imposed.
The Georgian Group	Object. The proposal would cause harm to the significance of Friary (East) through loss of historic fabric, harm to the legibility of the building's historic plan form and through changes to the building's setting	Noted in the officer report
Maldon Society	No objection to the residential use of the main house and the demolition of the community hall, but requests robust rejection of the remainder of the application.	Noted in the officer report
Historic England	Suggest that the officer seek the views of the	Noted

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
	Council's specialist conservation and archaeological advisers, as relevant.	
ECC SUDs Team	No objection subject to conditions being imposed	Noted in the report
ECC Archaeology	No objection subject to conditions	Noted in the report

### 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Urban Design Officer	Object to the proposal as the development would not accord with Policy S5 and D1 of the LDP	Noted in the report
Conservation Officer	Object to the proposal but no objection to the demolition of the adult learning centre	Noted in the report
The Coast and Countryside Officer	<p>Object to the planning application on the following grounds:</p> <ul style="list-style-type: none"> <li>Friary East will be severed from its historic stables and courtyard through inserting a vehicle access between the two and developing the lower half of The Friary garden. This not only creates an asymmetry in the remaining garden space but also adversely affects the setting of the building by cutting the existing gardens in two.</li> <li>The amount of development severely restricts the remaining garden space for a building of this size and negatively affects both its setting and its relationship with the</li> </ul>	Noted in the report

	<p>stable yard.</p> <ul style="list-style-type: none"> <li>• The proposals indicate a large part of the existing garden area will be stripped of its vegetation and either built on or hard surfaced.... Extensive car-parking is proposed to be provided largely within the canopy spread of the existing trees at the bottom of the garden. This will have both a negative amenity and biodiversity effect, and could create future conflict between the mature trees and car-users.</li> <li>• The existing tree belt and its associate understorey vegetation provide an informal screen between the footpath outside the southern boundary and the site which will be reduced, potentially affecting the experience of the user along this footpath. Little room is left along the eastern boundary wall to soften the development proposals along this line with the proposed buildings along this boundary apparently three stories high and likely to be visible from the eastern footpath.</li> <li>• Matters relating to ecology will be able to be addressed through conditions.</li> </ul>	
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Planning Policy Team	Comment: For the proposal to be acceptable, it will need to clearly demonstrate that there is sufficient infrastructure capacity to support the development and that its development would not delay or prejudice the development of the LDP allocations. There would need to be a significant contribution through a s106 legal agreement for the infrastructure demands from the development.	Noted in the report
Environmental Health Services	No objection subject to condition to details of surface water and foul drainage and land contamination to be submitted and approve by the Council	Noted in the report
Housing Department	Objects to the proposal	Noted in the report.

#### 7.4 Representations received from Interested Parties

- 7.4.1 34 letters were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<ul style="list-style-type: none"> <li>• The flat roofed building is out of keeping with the area</li> <li>• The height and design of the buildings are overwhelming</li> <li>• The garden would be spoilt</li> <li>• Impact on the conservation area</li> <li>• The Council has a five year housing land supply</li> <li>• The alleyway would be made dark by this development</li> <li>• Impact on wildlife</li> <li>• Noise and disturbance</li> <li>• The development would result in anti-social behaviour</li> <li>• Impact on the long views of the development</li> <li>• Increase in traffic movement</li> <li>• Loss of trees</li> <li>• Lack of services and facilities</li> </ul>	The concerns listed have been noted in the officer report

Objection Comment	Officer Response
<ul style="list-style-type: none"> <li>The development would result in the loss of historic fabric, impact on the Grade II listed building and the Friary Wall</li> </ul>	

**8. REASONS FOR REFUSAL:**

**FUL/MAL/17/00763**

- 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 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 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.

**LBC/MAL/17/00764**

- 1 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.