

## DELEGATED DECISION OFFICER REPORT

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File completed and officer recommendation:	AL	19/02/2021
Planning Development Manager authorisation:	TC	19/02/2021
Admin checks / despatch completed	DB	19.02.2021
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**Application:** 20/00228/FUL **Town / Parish:** Beaumont Parish Council

**Applicant:** Mr Steve Davies

**Address:** New Moze Hall Beaumont Road Great Oakley

**Development:** Proposed change of use of coach house to residential dwelling.

### **1. Town / Parish Council**

Beaumont Parish Council No comments received.

### **2. Consultation Responses**

ECC Highways Dept  
02.04.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. The building is set some distance from the public highway and will be utilising the existing vehicular access that serves New Moze Hall. The site is at the end of a private road and retains adequate room and provision for off street parking and turning, for the proposed dwelling therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to occupation of the development a vehicular parking and turning facility shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.  
Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

2. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.  
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

Essex County Council  
Archaeology  
07.04.2020

The above planning application has been identified as having the potential to harm a designated heritage asset.

The works proposed are to a historic building which was a former Coach house to New Moze Hall and should be considered a non-designated heritage asset. New Moze Hall is depicted on the Chapman and Andre map of 1777 and the coach house is visible on the 1st edition map and so must predate c1870. The conversion of the building may result in the loss of features and fittings related to its origin and evolution and a historic building record should be completed to preserve, by record, the historic building prior to the conversion.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

#### Building recording

1. No conversion can commence until a programme of historic building recording has been secured in accordance with a written scheme of investigation (WSI) to be submitted by the applicant, and approved in writing by the local planning authority.

2. The applicant will submit to the local planning authority a report detailing the results of the recording programme and confirm the deposition of the archive to an appropriate depository as identified in the Written Scheme of Investigation.

#### Further Recommendations:

A professional historic buildings specialist should undertake the work. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Essex County Council  
Heritage  
28.05.2020

Built Heritage Advice pertaining to an application for: Proposed change of use of coach house to residential dwelling.

The old coach house is considered to be a non-designated heritage asset as part of its grouping with the other buildings of the historic farmstead at New Moze Hall. The 1777 Chapman and Andre Map of Essex shows three distinct buildings at the site in the location of the current farmstead and Hall. The Coach house, hall, and further farmstead buildings are also visible on the First Edition OS mapping of the area.

The coach house is considered a non-designated heritage asset as part of the nineteenth century development of New Moze Hall and as such has group value with these buildings, contributing to the

significance of the overall grouping while also contributing to the setting of the historic hall, located in close proximity to it.

Very limited information has been provided in this application regarding the historic significance of the property. The impacts of the proposed development on the significance of the heritage assets has not been adequately assessed by the applicant though it is required by applicants in paragraph 189 of the NPPF. Research and understanding that would be gained by supplying a heritage statement should inform the proposals.

Notwithstanding this lack of information, I am unopposed to the proposals and advise that the applicant undertakes a building recording commensurate with a Historic England Level 2 building recording, prior to commencement of works.

Environment Agency  
09.04.2020

Thank you for your consultation we have reviewed the plans as proposed and we have no objection to this planning application, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

#### Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the proposed change of use of coach house to residential dwelling, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA by GeoSmart Information Ltd, referenced 70034R1 and dated 06/10/2017, are:

#### Actual Risk

- The site lies within the flood extent for a 0.5% annual probability event 0.5% (1 in 200) annual probability flood level including climate change.
- The site does benefit from the presence of defences. The defence with an effective crest level of 4.94m AOD has an SMP policy of "No Active Intervention". As such the SMP "Hold the Line" policy does not apply to this site.
- Finished ground floor levels have been proposed at 5.75m AOD. This is above the 0.5% annual probability flood level including climate change of 4.84mAOD
- The site level is a minimum of 3.08m AOD Therefore flood depths on site are up to between 1.74 meters deep in the 0.5% (1 in 200) annual probability flood event including climate change.
- Using the lowest site level and assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the

0.5% (1 in 200) annual probability flood event including climate change.

- Therefore this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (up to a 0.5% (1 in 200) annual probability including climate change flood event). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant but you should determine its adequacy to ensure the safety of the occupants.

#### Residual Risk

- The FRA does not explore the risk of a breach of the defences in enough detail for us to assess their analysis of the breach risk. Our undefended flood levels show that in a worst-case scenario the site could experience breach flood depths of up to 1.98m during the 0.5% (1 in 200) annual probability including climate change breach flood event with a flood level of 5.06m AOD. Up to 2.35m of flooding could be expected during the 0.1% (1 in 1000) annual probability including climate change breach flood event with a flood level of 5.43m AOD.

- Assuming a velocity of 0.5m/s the flood hazard on the site is danger for all including the emergency services in the 0.5% (1 in 200) annual probability breach flood event including climate change.

- Finished ground floor levels have been proposed at 5.75m AOD. This is above the 0.1% annual probability breach flood level including climate change of 5.43m AOD and therefore there is safe refuge.

- Flood resilience/resistance measures have been proposed

- A Flood Evacuation Plan has been proposed and is necessary to ensure the safety of the development in the absence of safe access with internal flooding in the event of a breach flood.

Additional information is available at the end of this letter, we trust you find this advice useful.

### **3. Planning History**

02/01450/FUL	Garage and attic conversion.	Approved	12.09.2002
17/00088/OUT	Outline erection of a 4 bedroomed 2-storey house, following demolition of 2 outbuildings.	Withdrawn	08.03.2017
17/00971/FUL	Erection of extension to existing ancillary outbuilding (to replace flat-roof store) and installation of timber cladding to create a 2-bedroomed dwelling.	Refused	26.03.2018

### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

EN11C Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

HP5 Open Space

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

**Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10<sup>th</sup> December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

## **5. Officer Appraisal (including Site Description and Proposal)**

### **Site and Surroundings**

The site is part of a residential curtilage to a large detached house in the countryside. The site includes an existing domestic outbuilding. The outbuilding has external walls of painted render and a slate covered hipped roof. On the rear of the outbuilding off the western elevation, is a flat roofed extension. The outbuilding has been in use as a snooker room and home office. To the east of the outbuilding is the detached house of New Moze Hall and further to the east are agricultural buildings.

The locality is that of open countryside and the site is within the Coastal Protection Area. The site is accessed by a track off the road between Great Oakley and Beaumont, part of the B1414. The site is on lower ground than the road but such a significant distance from the road that the outbuilding is barely visible in the landscape. There is no public right of way in the vicinity of the site.

### Description of Proposal

The application seeks full planning permission for the conversion of the existing coach house/outbuilding into a 1 bedroom dwelling.

The accommodation is set over two floors comprising an office, a shower-room, a living room and a kitchen on the ground floor and a bedroom and bathroom within the roof space.

Parking within the site would be on a gravel drive adjacent the entrance door on the northern elevation.

The outbuilding would be externally insulated and clad in black weatherboard. The roof would be rebuilt to the same hipped roof form and height, insulated and covered in slates. Three roof lights would be inserted in a northern roof slope, the elevation facing in the direction of Beaumont Road. Three existing roof lights on the southern roof slope would be removed to avoid overlooking of the retained garden of New Moze Hall.

The plans show a raised planting bed and the creation of a pond in the garden of the proposed house. Another outbuilding, a timber barn, would be retained within the curtilage of the proposed dwelling.

### Assessment

The main considerations in this instance are:

- Planning History;
- Principle of Residential Development;
- Visual Impact (including Coastal Protection Belt);
- Impact on Heritage Asset;
- Flood Risk;
- Access, Parking and Highway Safety;
- Residential Amenities;
- Financial Contribution - Open Space/Play Space;
- Financial Contribution - Recreational Disturbance;
- Archaeology; and,
- Representations.

### Planning History

This application follows a previously refused application under planning application reference 17/00971/FUL. A supporting statement did not form part of this application. This application was refused at a time when the Council were able to demonstrate a 5 year housing land supply and allowing residential development in this location was deemed contrary to the plan-led approach set out within the core planning principles of the Paragraph 17 of the National Planning Policy Framework 2012 (now paragraph 15 of the NPPF 2019). Furthermore, due to the remote location of the site being a considerable distance from any defined settlement with no access to services and amenities for day to day needs, the application was considered to fail the social strand of sustainable development.

No appeal was submitted for this application.

### Principle of Residential Development

- Paragraph 79

A Planning Statement has been submitted with this application citing Paragraph 79 criterion c) of the National Planning Policy Framework 2019 (NPPF) as justification for allowing the proposed development.

Paragraph 79 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Paragraph 79 (formerly Paragraph 55) can only apply if a home is considered to be isolated. The term 'isolated home' has no statutory definition resulting in its consideration by both High Court and Court of Appeal. In trying to define an "isolated home" judges have made the following points:

Lewis LJ states that 'a new dwelling within that curtilage [curtilage of an existing permanent structure] will not be an "isolated home"' (Dartford Borough Council v Secretary of State for Communities and Local Government and Others [2017] EWCA Civ 141).

On the other hand, Mrs Justice Land J. argues that 'in applying [paragraph 55 of the NPPF], and considering whether proposed development amounted to "new isolated home in the countryside", it is irrelevant that the development was located proximate to other dwellings", and that "[the] key question was whether it was proximate to services and facilities so as to maintain or enhance the vitality of the rural community" (Braintree District Council v Secretary of State for Communities and Local Governments and Others [2017] EWHC 2743). The Judge also suggested that 'as for the "immediate context" of the policy, "isolated homes in the countryside" are not in communities and settlements and therefore, the distinction between two is primarily spatial/physical'.

Dr Bowes disagreed with that opinion and stressed that 'the word "isolated" in the third sentence of paragraph 55 can mean either physical or functional isolation, and that, in the application of the policy, both of these two concepts are relevant and significant' (Braintree District Council v Secretary of State for Communities and Local Government and Others [2018] EWCA Civ 610).

According to Lindblom LJ, 'the word "isolated" in the phrase "isolated homes in the countryside" simply connoted a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, "isolated" in this sense will be a matter of fact and planning judgement for decision-maker in the particular circumstances of the case in hand' (Braintree District Council v Secretary of State for Communities and Local Government and Others [2018] EWCA Civ 610).

It is clear that there is no fixed legal definition of an "isolated house". Therefore, each case must be considered individually and it is therefore a matter of planning judgement for the decision-maker to



decide whether or not a dwelling is 'isolated' having regard to the case law cited above which forms a material consideration when considering such developments.

Certain principles can be extracted from these judgements, which should be considered when seeking to understand if a dwelling can be treated as an "isolated home" and therefore, whether Paragraph 79 can be applied to a case:

- whether or not it is located within the settlement boundary;
- proximity to other dwellings;
- proximity to local services and facilities;
- access to public transport services;
- physical and visual separation from the settlement.

Having regard to the above, whilst it is recognised that the site is physically located away from the defined settlement and located away from local services and public transport, the building itself is a domestic outbuilding situated within the curtilage of an existing dwelling. The building is not a redundant or unused building of a rural nature but simply a domestic outbuilding within the garden of an occupied dwelling that the occupant has decided to no longer use.

Officers do not consider the building to be 'isolated' and therefore Paragraph 79 would not apply. Moreover, Officers do not consider it appropriate to apply Paragraph 79 to a recently used domestic outbuilding within an existing garden as this would set a harmful precedent for existing or recently active domestic outbuildings to be considered as exception sites.

Nonetheless, even if Paragraph 79 were considered relevant to the site, the well-kempt physical characteristics of the site, gardens and appearance of the building means that any alterations to the building or site could not constitute an enhancement to its immediate setting of any significant benefit that would warrant approval of its conversion into a dwelling.

#### *- 5 Year Housing Land Supply*

Paragraph 7 of the National Planning Policy Framework 2019 (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 explains that achieving sustainable development means that the planning system has three overarching objectives, namely an economic objective, a social objective and an environmental objective. However, Paragraph 9 emphasises that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. This is supported through Paragraph 11 which states that plans and decisions should apply a presumption in favour of sustainable development and for plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing.

For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date then permission should be granted. Footnote 7 explains that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer, as set out in paragraph 73.

However, Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopted Section 1 part of the development plan which carries full weight in the determination of planning applications - superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

As the supply of deliverable housing sites in the modified Section 1 of the Local Plan is now in the order of 6.5 years this actual objectively assessed housing need for Tendring is a significant material consideration in the determination of planning applications which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing - particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

In this instance, the site lies outside of the settlement development boundary for the area as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focused towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

Saved Policy QL1 of the adopted Local Plan remains broadly consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development

to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. This also includes making effective use of land, particularly that which is previously developed, in meeting the need for homes. Those planned for rural areas are responsive to local circumstances and support local needs, whilst recognising the intrinsic character and beauty of the countryside. Emerging Policy SPL1 of the Publication Draft gain traction due to the same consistency with the NPPF as found in respect of those in the adopted Local Plan.

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

Accounting for the housing land supply situation, regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is an unnecessary intrusion into the countryside and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

#### *- Access to Services and Amenities*

As stated above, the site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft. Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective.

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

Beaumont and Great Oakley - the closest settlements of any size, are categorised in emerging Policy SPL1 as a 'Smaller Rural Settlement' in recognition of its size and small range of local services, and are considered to be the least sustainable settlements for growth. In this instance however, the application site is located over 2km and 3km from the edge of defined settlement boundaries further diminishing any social sustainability credentials of the site as it is far from any of the already limited range of local services within the boundary. Whilst there is a bus service along the B1414, that main road is accessed via a sloping, narrow and unlit farm track some 750m long and the main road has no footpaths or lighting, and walking or cycling to either a bus stop or the built up area of Beaumont or Great Oakley would be dangerous and impractical.

In this regard, there is no access to day to day needs within a practical walking distance and the conditions are potentially unsafe on this 60mph country road. Any social sustainability credentials of the site are severely diminished due to its distance from the nearest built up area which already has limited local services. It is highly likely that the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.

Regardless of the Council's housing land supply position, the application fails to meet the social strand of sustainable development as set out within the NPPF.

### Visual Impact (including Coastal Protection Belt)

As stated above, Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

Furthermore, as the site lies within the Coastal Protection Belt Saved Policy EN3 of the adopted Local Plan is relevant which seeks to protect the undeveloped coast. Policy EN3 states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt, as defined on the Proposals Map of the adopted Local Plan, will not be permitted.

The building is set well back from the highway and does not appear prominent from the public domain. The single storey and modest scale of the building means that it does not appear prominent in the landscape. The proposed alterations to the building are minimal and will not result in any visual or landscape harm. The building exists and sits alongside the host dwelling and adjacent agricultural buildings meaning that no harm to the quality of the Coastal Protection Belt will result from the development.

### Impact on Heritage Assets

The old coach house is considered to be a non-designated heritage asset as part of its grouping with the other buildings of the historic farmstead at New Moze Hall. The 1777 Chapman and Andre Map of Essex shows three distinct buildings at the site in the location of the current farmstead and Hall. The Coach house, hall, and further farmstead buildings are also visible on the First Edition OS mapping of the area.

The coach house is considered a non-designated heritage asset as part of the nineteenth century development of New Moze Hall and as such has group value with these buildings, contributing to the significance of the overall grouping while also contributing to the setting of the historic hall, located in close proximity to it.

Very limited information has been provided in this application regarding the historic significance of the property. The impacts of the proposed development on the significance of the heritage assets has not been adequately assessed by the applicant though it is required by applicants in paragraph 189 of the NPPF. Research and understanding that would be gained by supplying a heritage statement should inform the proposals.

Notwithstanding this lack of information, Essex County Council Historic Environment do not object to the proposal provided that the applicant undertakes a building recording commensurate with a Historic England Level 2 building recording, prior to commencement of works. These requirements could be secured by an appropriately worded condition.

### Flood Risk

The site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding.

It is noted from the history of the site that a previous report (reference 17/00971/FUL) commented that the site itself is outside of the flood risk zone as the farm track and the land around the farm buildings is elevated. However, there is no evidence of this in the information received by the Environment Agency. Having reviewed the flood maps, it is clear that there is an area at the centre

of the overall site of New Moze Hall which falls outside of the flood zone (likely due to the elevated land), however the building subject of this application falls mostly within flood zone 3 and must therefore comply with the requirements set out by the Environment Agency.

The proposal is for the proposed change of use of coach house to residential dwelling, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

Paragraph 155 of the National Planning Policy Framework 2019 states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 157 states that Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by (inter alia) applying the Sequential Test. Paragraph 158 further explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Where the sequential test shows that it is not possible for the development to be located in zones with a lower probability of flooding, the exception test should be applied when appropriate. For the exceptional test to be passed, it must be demonstrated that firstly, the development provides wider sustainability benefits to the community that outweigh flood risk and secondly, that a site-specific flood risk assessment demonstrates that the development is appropriately flood resilient and resistant over its lifetime. The Government's Planning Practice Guidance sets out that the exceptional text is required for 'More Vulnerable Uses' within Flood Zone 3a.

Saved Policy QL3 of the adopted Tendring District Local Plan 2007 supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area.

These sentiments are echoed in draft policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

The application is accompanied by a Flood Risk Assessment to which the Environment Agency raise no objection subject to the Sequential and Exception Tests. The application fails to provide a flood evacuation plan. The overriding aim of flooding policy is to direct new development away from areas at highest risk. Officers find no essential reason to locate the proposed dwelling in a high flood risk area and thus the Sequential Test is not passed. Given that finding, there is no requirement to apply the Exception Test. The application of Framework policies to direct inappropriate development away from areas with the highest risk of flooding provides a clear reason for refusing the development.

#### Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new dwellings.

Vehicular access would be via the existing access to the highway shared with New Moze Hall. Sufficient space is available within the new site to provide parking 1 parking space to accord with the parking standards for 1 bedroom dwellings.

Essex County Council Highway Authority raise no objections subject to conditions.

### Residential Amenities

Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) states that permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space and accessibility. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to safeguard the amenities and aspect of adjoining residents.

The building is well separated from the host property New Moze Hall, which is the nearest affected dwelling, its use as a residential property would not be harmful in terms of privacy, daylight or other amenity considerations.

The new dwelling provides private amenity space in accordance with adopted Policy HG9.

### Financial Contribution - Open Space/Play Space

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

The Council's Public Realm Team have been consulted on the application and are not seeking a contribution in this instance.

### Financial Contribution - Recreational Disturbance

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately being approximately 420m from the Hamford Water Ramsar site. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## Archaeology

Essex County Council Archaeology have identified the application as having the potential to harm a heritage asset.

The works proposed are to a historic building which was a former Coach house to New Moze Hall and should be considered a non-designated heritage asset. New Moze Hall is depicted on the Chapman and Andre map of 1777 and the coach house is visible on the 1st edition map and so must predate c1870. The conversion of the building may result in the loss of features and fittings related to its origin and evolution. Essex County Council Archaeology recommend that a historic building record should be completed to preserve, by record, the historic building prior to the conversion. These requirements could be secured by an appropriately worded condition.

## Representations

No comments have been received from Beaumont Parish Council.

No neighbour letters of objection have been received.

## Conclusion

For the reasons set out above, the location of site is considered wholly unacceptable for new residential development due to its remote location, poor access to services and high flood risk. Regardless of the Council's 5 year housing land supply there are material considerations or benefits that might warrant the proposal being considered in an exceptional light.

## **6. Recommendation**

Refusal - Full

## **7. Reasons for Refusal**

- 1 Paragraph 11 of the National Planning Policy Framework 2019 (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring. The Council has now formally adopted Section 1 part of the development plan which carries full weight in the determination of planning applications - superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

For the purposes of the determination of this application the Council can currently demonstrate that a 5 year housing land supply exists. Engaging the presumption in favour of sustainable development under paragraph 11d) of the NPPF does not apply in this instance. The policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

The application site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). There is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. The adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits or other material considerations. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11c) of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

- 2 Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting a social objective.

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

Beaumont and Great Oakley - the closest settlements of any size, are categorised in emerging Policy SPL1 as a 'Smaller Rural Settlement' in recognition of its size and small range of local services, and are considered to be the least sustainable settlements for growth. In this instance however, the application site is located over 2km and 3km from the edge of defined settlement boundaries further diminishing any social sustainability credentials of the site as it is far from any of the already limited range of local services within the boundary. Whilst there is a bus service along the B1414, that main road is accessed via a sloping, narrow and unlit farm track some 750m long and the main road has no footpaths or lighting, and walking or cycling to either a bus stop or the built up area of Beaumont or Great Oakley would be dangerous and impractical.

In this regard, there is no access to day to day needs within a practical walking distance and the conditions are potentially unsafe on this 60mph country road. Any social sustainability credentials of the site are severely diminished due to its distance from the nearest built up area which already has limited local services. It is highly likely that the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.

Regardless of the Council's housing land supply position, the application fails to meet the social strand of sustainable development as set out within the NPPF.

- 3 The site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the proposed change of use of coach house to residential dwelling, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

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The application is accompanied by a Flood Risk Assessment (FRA) to which the Environment Agency raise no objection subject to the Sequential and Exception Tests. However, the application fails to provide a flood evacuation plan and the FRA is lacking in other areas. The overriding aim of flooding policy is to direct new development away from areas at highest risk. Officers find no essential reason to locate the proposed dwelling in a high flood risk area and thus the Sequential Test is not passed. Given that finding, there is no requirement to apply the Exception Test. The application of Framework policies to direct inappropriate development away from areas with the highest risk of flooding provides a clear reason for refusing the development.

- 4 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential on a site that lies within the Zone of Influence (ZoI) being approximately being approximately 420m from the Hamford Water Ramsar site. New housing development within the ZoI would be likely to increase the number of recreational visitors to the Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## **8. Informatives**

### **Positive and Proactive Statement**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Agent. However, the issues 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 within the reason(s) for the refusal, approval has not been possible.