



Appeal Decision

Site visit made on 1 July 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 August 2025

Appeal Ref: APP/B1550/W/24/3353686

Riverview, land end of Oakfield Road, Hockley SS5 5JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr B Wheatley against the decision of Rochford District Council.
 - The application Ref is 24/00465/FUL.
 - The development proposed is described as “Proposed removal of existing units and provide single storey dwelling and associated parking and amenity”.
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Decision

1. The appeal is allowed and planning permission is granted for removal of existing units and erection of a single storey dwelling and associated parking and amenity space at Riverview, land end of Oakfield Road, Hockley SS5 5JY in accordance with the terms of the application, Ref 24/00465/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description in the banner heading above is taken from the original application form. I have slightly amended the wording in my decision for clarity.
3. The appellant has submitted revised plans with the appeal, which materially change the height of the proposed dwelling. The *Procedural Guide – Planning Appeals – England* states the appeal process should not be used to evolve a scheme. I have therefore considered the appeal based on the plans that were before the Council when it made its decision.
4. The appellant’s appeal submission includes a biodiversity net gain (BNG) calculator and BNG statement. Updated versions of these documents were subsequently provided with the appellant’s final comments. In the interests of procedural fairness, I gave the Council an opportunity to comment on these updated BNG documents and a further clarification from the appellant. I have taken the Council’s responses into account in my decision.
5. The National Planning Policy Framework (the Framework) was updated in December 2024. The main parties have had an opportunity to comment on the implications of the revised Framework for the appeal and I am satisfied there would be no injustice in this respect.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
- the effect of the proposal on the integrity of protected European sites; and.
- whether the statutory biodiversity net gain objective would be capable of being met.

Reasons

Whether inappropriate development in the Green Belt

7. The Framework states development in the Green Belt is inappropriate, subject to several exceptions. One of these, at paragraph 154 g), is partial redevelopment of previously developed land (including a material change of use to residential), which would not cause substantial harm to the openness of the Green Belt.
8. Although no development plan policies are listed in the Council's first reason for refusal, Policies GB1 and GB2 of the Rochford Core Strategy 2011 (RCS) and Policy DM10 of the Rochford Development Management Plan 2014 (RDMP) are referred to in its decision report. These Policies are not fully consistent with the Framework's current provisions on Green Belt, including in relation to previously developed land, so I give them limited weight for the purposes of this appeal. I give full weight to the Framework as a material consideration.
9. The appeal site comprises a series of structures used for storage, sited within an area of hardstanding; the foundations of a small former dwelling; and areas of grass, scrub and trees. The site is largely surrounded by mature woodland. There is no dispute the site meets the Framework's definition of PDL.
10. The proposal would replace the existing structures with a single-storey dwelling, the maximum ridge height of which would exceed that of the existing units by approximately 1.6m. This would somewhat reduce spatial openness on the site. However, there would be a material reduction in built footprint and volume compared to the existing situation, by some 30 per cent and 12 per cent respectively according to the Council's figures. In addition, built form would be consolidated into one structure, so would appear less cluttered than several storage units with their associated paraphernalia. Further, part of the proposed roof, below the gabled element, would be flat and sedum-covered, which would help mitigate its visual impact.
11. Taking these factors together, visual openness would if anything improve as a result of the development. Moreover, the secluded location of the site and surrounding trees mean little of the site or new house would be visible within the wider area. Overall, I find harm to the openness of the Green Belt would be limited and well below the substantial threshold in Framework paragraph 154 g).
12. For the above reasons, I conclude the exception at Framework paragraph 154g) is satisfied and the proposal would not be inappropriate development in the Green Belt.

Integrity of protected European sites

13. The appeal site is within the zone of influence of the Essex Estuaries Special Area of Conservation (the SAC) and the Crouch & Roach Estuaries, Foulness Estuary, Dengie and Blackwater Estuary Special Protection Areas (the SPAs). The SAC and SPAs are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Under the Habitats Regulations, an appropriate assessment is required in relation to the effect of the development on the integrity of the sites. This responsibility falls to me as competent authority in the context of this appeal.
14. The SAC is a coastal estuarine system with associated open coast mudflats, sandflats, sandbanks, saltmarshes and inter-tidal zones. Its qualifying features include annuals that colonise mud and sand, cord-grass swards, salt meadows and scrubs, and it contains a wide range of marine and estuarine sediment communities. The SPAs support nationally and internationally important populations of breeding and migratory bird species, such as the Little Tern, Hen Harrier and Ringed Plover. They are particularly important for wintering waterbirds such as the Dark-bellied Brent Goose and Cormorant.
15. The conservation objectives of the SAC and SPAs are to ensure their integrity, including the extent, distribution, structure, function and supporting processes of the habitats, and population and distribution within the sites of each of the qualifying features, is maintained or restored.
16. There is a threat to the sites and their qualifying features from recreational activity, such as walking, dog-walking and water sports. It is likely the occupants of the proposed dwelling would make use of the sites for recreational activity, thereby increasing levels of recreational disturbance. Such an increase, alone or in combination with other plans and projects, would be likely to have a significant effect on the integrity and conservation objectives of the SAC and SPAs.
17. The parties have agreed a financial contribution in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and associated Essex Coast RAMS Supplementary Planning Document. The sum would be put towards an agreed programme of strategic mitigation measures. Natural England has been consulted as part of this appropriate assessment and has confirmed that the Essex Coast RAMS measures are sufficient to avoid an adverse impact on the integrity of the SAC and SPAs.
18. Although not contained within a legal agreement, I am satisfied on the evidence before me that the appropriate tariff has been received by the Council for the purposes of contributing to the strategic mitigation measures in the Essex Coast RAMS.
19. For the above reasons, I conclude there would be no adverse effect from the proposed development on the integrity of the protected European sites. Accordingly, I find no conflict with RCS Policy ENV1, which seeks to maintain, restore and enhance sites of nature conservation importance. I also find no conflict with the Framework, which requires adequate mitigation if significant harm to sites protected under the Habitats Regulations cannot be avoided.

Biodiversity net gain

20. BNG is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The effect of paragraph 13 of Schedule 7A is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition (“the biodiversity gain condition”) that development may not begin unless:
 - (a) a Biodiversity Gain Plan has been submitted to the planning authority; and
 - (b) the planning authority has approved the plan.
21. The appellant has confirmed in their updated BNG statement that they believe the development would be subject to the biodiversity gain condition.
22. For this condition to be capable of being successfully discharged, the minimum information requirements set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 must be satisfied before planning permission is granted¹.
23. The appellant has provided the statutory Biodiversity Metric and a plan showing the pre-development biodiversity value of the onsite habitat according to the UK Habitats Classification, as surveyed by a qualified ecologist in December 2024. This information confirms there is no irreplaceable habitat on the site and no previous activities have resulted in loss of onsite biodiversity value.
24. On-site habitats are identified as ‘artificial unvegetated, unsealed surface’ and ‘developed land, sealed surface’, which the Council’s senior ecological consultant (SEC) accepts have no bearing on the overall BNG calculation; and ‘lowland mixed deciduous woodland’, which does. The SEC thinks there may also be grassland habitats present. However, he accepts these would have a lower biodiversity value than the woodland habitat recorded and, on the evidence before me, I see no reason to disagree. Thus, as BNG would be calculated against the higher value baseline, a net gain of at least ten percent would be capable of being met even if lower-value grassland habitats are present.
25. Post-intervention calculations are a matter for the BGP and the planning authority for the purposes of determining whether to approve a BGP would be Rochford District Council.
26. I conclude the submitted information satisfies the minimum information requirements and the statutory BNG objective would be capable of being met.

Other Matters

27. The appellant’s Arboricultural Report confirms no trees would need to be removed or worked on as part of the development. It provides a Method Statement for protecting existing trees during construction, which could be secured by condition.
28. Ownership issues are a private matter between the relevant parties and not within my jurisdiction. Planning permission would not override any legal rights of access.

¹ Planning Practice Guidance Paragraph: 011 Reference ID: 74-011-20240214

Conditions

29. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
30. A condition requiring bird nesting surveys and exclusion zones where nests are found is necessary to protect wildlife during construction. A condition requiring adherence to the submitted Tree Protection Plan and Arboricultural Method Statement during construction is necessary to protect the existing trees.
31. A condition to secure a hard and soft landscaping plan is necessary to secure a satisfactory appearance for the development and to ensure acceptable car parking and circulation arrangements. A condition requiring approval of details of external materials is necessary to integrate the appearance of the new house into the surrounding area.
32. Given the statutory biodiversity gain condition noted above, the suggested condition to secure a separate Biodiversity Enhancement Layout is not necessary. As the site is small-scale, a condition requiring monitoring and reporting on biodiversity would not meet the test of reasonableness.
33. A condition in relation to surface water drainage and disposal of foul water is necessary to mitigate the risks of surface water flooding and groundwater contamination. Conditions securing bicycle storage and electric vehicle charging infrastructure are necessary to promote sustainable travel. Public rights of way are covered by another regulatory regime, so a condition protecting public access to bridleway No 24 does not meet the test of necessity.
34. A condition removing permitted development rights for alterations and extensions to the new house is necessary so the Council can assess the effect of any such future proposals on the openness of the Green Belt, bearing in mind my finding on this matter under the first main issue.

Conclusion

35. For the above reasons the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
CS.301/01 Site Location Plan;
CS.301/02 Existing Site Plan;
CS.301/03 Existing Buildings;
CS.301/04 Existing Buildings;
CS.301/05 Proposed Site Plan;
CS.301/06 Proposed Floor Plan;
CS.301/07 Proposed Roof/Landscaping Plan;
CS.301/08 Proposed Elevations;
CS.301/09 Massing Volume Plans.
- 3) Prior to the removal of any vegetation or the demolition of buildings between 1 March and 31 August in any year, a detailed survey shall be carried out to assess the presence of nesting birds and a survey report shall be submitted to the local planning authority. Where a nest is found in any hedgerow or tree, in any building to be demolished, or in any scrub or other habitat to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting/breeding shall be confirmed by a suitably qualified person in a report to be submitted to and approved in writing by the local planning authority before any further works within the exclusion zone(s) take place.
- 4) Demolition, construction and landscaping shall be carried out in full compliance with the Tree Protection Plan and Arboricultural Method Statement in the submitted Arboricultural Report by Andrew Day Arboricultural Consultancy, dated 25 March 2023.
- 5) No development above ground shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:
 - i) all existing trees and hedgerows on the land, identifying those to be retained;
 - ii) existing and finished levels shown as contours with cross-sections where appropriate;
 - iii) existing and proposed functional services above and below ground (such as drainage, power and communication cables, supports, pipelines and manholes);
 - iv) areas to be grass seeded or turfed;
 - v) paved or otherwise hard-surfaced areas;
 - vi) means of enclosure and other boundary treatments;

- vii) car parking layouts, vehicle access and circulation areas; and
- viii) an implementation programme.

The landscaping scheme shall be implemented in accordance with the approved details and implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) The dwelling hereby permitted shall not be occupied until works for the disposal of sewage and drainage of surface water have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 8) The dwelling hereby permitted shall not be occupied until infrastructure for electric vehicle charging has been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The electric vehicle charging infrastructure shall thereafter be retained and maintained in an operational condition.
- 9) The dwelling hereby permitted shall not be occupied until space has been laid out within the site for bicycles to be stored in accordance with the Rochford District Council Parking Standards Design and Good Practice Supplementary Planning Document. That space shall thereafter be kept available for the storage of bicycles.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C and E of Part 1 of Schedule 2 to the Order shall be undertaken.

End of schedule