Planning Inspectorate

Appeal Decision

Site visit made on 23 September 2026

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2026

Appeal Ref: APP/A1530/C/25/3371672
Land known as Oyster Laying's, Coast Road, West Mersea, Colchester

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Heather Haward against an enforcement notice issued by Colchester City Council.
- The notice was issued on 7 August 2025.
- The breach of planning control as alleged in the notice is without the benefit of planning permission, the carrying out of an engineering operation by means of the installation of a retaining wall including the importation of soil to raise the land to create an extension to the foreshore.
- The requirements of the notice are to: (i) Remove the retaining wall and supporting posts from the land; (ii) Remove all discarded oyster shells from the land to a safe place of disposal using a licensed carrier; (iii) Remove all imported soil that was used to raise the land to a safe place of disposal using a licensed carrier; and (iv) Restore the land back to its condition prior to the works taking place.
- The period for compliance with the requirements is: 6 calendar months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The revised National Planning Policy Framework (the Framework) was published on 17 August 2026, and I have had regard to this in my decision. The main parties were invited to provide comments on the revised Framework and the comments received have been taken into account in my determination of the appeal.

Main Issues

2. The main issues are:

   - the effect of the development on ecology of the estuarine habitat;
   - the effect of the development on flood risk; and
   - whether the development preserves or enhances the character or appearance of the West Mersea Conservation Area.

Reasons

Estuarine habitat

3. The site is adjacent to a Site of Special Scientific Interest, Special Area of Conservation, Special Protection Area and RAMSAR site. These areas are designated because of their ecological value.

4. The development encroached into a proportion of mudflats, and the activity included the importation of material and land raising. It is unclear what effects

result from the materials used as no ecological assessment has been provided. I note that marsh plants are growing and appear to thrive on the quay but in the absence of such an assessment I cannot rule out harm to the estuarine habitat. Further, I cannot be sure whether measures are necessary to adequately mitigate, or at last resort compensate for any significant harm to the estuarine habitat.

5. Consequently, on the basis of the available information, the development may cause unacceptable harm to the ecology of the estuarine habitat, contrary to Policies ENV1 and ENV2 of the Colchester Borough Local Plan 2017-2033 Section 2 (2021) (LP2) and to Policy WM15 of the West Mersea Neighbourhood Plan 2017-2033 (2022). Amongst other things, these policies seek to conserve and enhance Colchester's natural environment and coastline and maximise opportunities for the preservation, restoration, enhancement and connection of natural habitats.

Flooding

6. The site falls within Flood Zone 3. LP2 Policy DM23 requires developments to deliver or contribute to the delivery of flood defence/protection measures and/or flood mitigation measures to minimise the risk of increased flooding both within the development boundary and off-site in all flood zones and to ensure that the development remains safe throughout the life of the development.

7. The appellant claims that the quay replaced a previous structure that would have existed on site. It was installed to protect both the existing shed on site and the business which operates from it from surge tides, which are becoming more frequent. However, limited information has been provided as to how the quay was designed to mitigate the effects of flooding or how it would protect the existing shed and business from surge tides. As a result, the effectiveness of the development is unclear.

8. As such, there is insufficient evidence before me to demonstrate that the development accords with LP2 Policy DM23 in terms of its effect on flooding.

Conservation Area

9. The appeal site lies within the West Mersea Conservation Area (CA). Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

10. The CA covers the historic core of the settlement of West Mersea and the shoreline adjacent to it. The landside of the CA includes a mix of historic buildings and cottages, while the seaward side comprises densely stocked boatyards with associated sheds, oyster stores and houseboats with open mudflats and marshes beyond. Other structures, such as quays and piers, are also present within the CA. The significance of the CA therefore derives, in part, from West Mersea's connection to the coastal trade including boat building and fishing centre. The appeal site includes a shed used in association with the oyster industry and, as such, makes an important contribution to the significance of the CA.

11. The shuttering, supporting posts and imported soil raised the land levels on site and created a quay. However, the structure is small in scale, and there are examples of similar forms of development within the CA, including in the vicinity of

the site. As such, the creation of the quay is not an alien feature to the coastal frontage and therefore the development does not detract from the character or appearance of the CA.

12. Thus, the development preserves the character or appearance of the West Mersea CA, in accordance with Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan 2021 (LP1), and LP2 Policies DM15 and DM16. Amongst other things, these policies support development that responds positively to local character and context, preserves and enhances the quality of existing places and their environs, and conserves the historic environment.

Conclusion

13. For the reasons given above, I conclude that the development conflicts with the development plan. On that basis, the appeal should not succeed.

Decision

14. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

P Terceiro

INSPECTOR