



Appeal Decision

Site visit made on 6 June 2025

by **N Perrins MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2025

Appeal Ref: APP/X1545/D/25/3359440

Chase End, The Downs, Maldon, Essex CM9 5HR

- 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 Andrew Thurston against the decision of Maldon District Council.
 - The application Ref is HOUSE/MAL/24/00680.
 - The development is erection of wooden decking attached to the rear of the property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2024. The updated Framework does not raise any new matters that are determinative to the outcome of this appeal.
3. As confirmed in the information before me and observed on my site inspection, the development is largely completed and, therefore, retrospective. I have assessed the appeal on this basis.

Main Issue

4. The main issue is the effect of the development on (i) the living conditions of neighbouring properties with particular regard to privacy, and (ii) the character and appearance of the area.

Reasons

5. The appeal property is a detached dwelling with rear garden area located on the northern side of The Downs. The appeal property is among several detached houses on The Downs, each situated on relatively spacious plots and positioned in a linear arrangement next to one another.
6. The development consists of timber decking situated along the rear elevation of the property. It measures approximately 13.4 metres in width, with a depth ranging from approximately 1.85 metres to 3.98 metres from the rear elevation, and a height varying from approximately 1 to 1.36 metres from ground level. The edges of the decking feature timber posts and wooden railings measuring approximately 1.2 metres and 0.9 metres in height, respectively. Timber steps are centrally located on the decking, providing access to the garden area below. The development extends

up to the adjacent property, Field Ways, to the east. There is an existing timber fence along this boundary, which the plans indicate will be replaced with a new panel that has not yet been installed. The development is situated approximately 6 metres from the boundary with Crosstrees to the west.

7. The development has replaced an outdoor area that was situated on lower ground than the current structure. The newly built decked platform, where individuals can sit or stand, is now significantly higher than the previous area. Considering the increase in height along with the extent of rear projection and width up to the eastern boundary, the decking provides direct views over the boundary fence into the adjacent garden area of Field Ways. Given the land's topography and the elevated height of the development, these views, even with some screening in place, result in an unacceptable loss of privacy for the rear garden area of Field Ways due to actual and perceived overlooking.
8. I recognise that the appellant has taken measures seeking to mitigate this harm by recessing the balustrades and placing planters around the edges of the eastern section of the development. I also note that the plans indicate additional trees will be provided at the boundary with Field ways.
9. However, the planters, being temporary in nature, cannot be relied upon for long-term mitigation. Additionally, they only reduce impact from the far eastern section of the development. The additional tree planting may not obstruct views from all sections of the decking to the east, and the time required for the trees to mature creates uncertainty about their effectiveness as a mitigation measure. Therefore, whilst the proposed planting mitigations are acknowledged, there remains significant uncertainty as to their long-term effectiveness throughout the lifespan of the development.
10. Whilst I have identified unacceptable harm to the living conditions of Field Ways, I do not consider there would be any material harm to living conditions to any of the other adjoining properties. This is due to Crossways being set back deeper in its plot and with a greater separation distance to the development. The mature screening along the rear boundary also mitigates any harm to the properties in that direction. However, this does not justify the harm identified to Field Ways where the impact is the most marked.
11. I am aware of the appellant's medical circumstances and need for improved access from the property to the external area. Whilst this is acknowledged, it does not outweigh the significant harm to Field Ways identified, that without suitable screening, would occur long into the future and beyond the needs of the current occupiers of the appeal property.
12. To conclude, the development results in an unacceptable loss of privacy to Field Ways that has not been satisfactorily addressed by the proposed boundary treatment. As such, the proposal is contrary to Policies D1 and H4 of the Maldon Local Development Plan 2017 (LDP). The proposal would also not be consistent with paragraph 135 of the Framework that requires development to have a high standard of amenity for existing and future occupants.

Character and appearance

13. The appeal site is located within the Maldon Conservation Area (CA). The duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act

1990 (the Act) require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. I understand that the special character and appearance of the CA derives from the large collection of surviving historic buildings.

14. The appeal building, which dates from the 20th century, is not recognised as a historic building within the CA and, therefore, has a neutral impact on its special character and appearance. The development is not prominently visible from within the CA and appears as a compatible addition to the host property in its design and appearance. Consequently, the development does not affect the special character or appearance of the CA.
15. Separate to the impact on the CA, I note the Council considers the proposal to be an overbearing and discordant feature due to its scale and elevated position that harms the character and appearance of the area. By being at the rear of the property, the development is, however, not prominently visible in the wider area other than from immediately adjacent properties. Although the development is larger than what it replaced, it does not appear out of place or disproportionate in relation to the host property. The host property is a relatively large building in a sizeable plot, which can accommodate the development without it causing significant harm to the character and appearance of the area, even with parts of it being visible from neighbouring properties.
16. For these reasons, I find that the development has an acceptable impact on the character and appearance of the area and accords with Policies D1 and H4 of the LDP. This, however, does not justify the harm to living conditions, which is sufficient of itself to refuse planning permission.

Other matters

17. Concerns have been raised over the development being built without first obtaining planning permission, land stability, encroachment into Field Ways affecting their ability to maintain the fence line, and impact on the heritage harbour skyline. However, as I have found the development to be unacceptable for other reasons, I do not need to consider these other matters further in this decision.
18. I also note the appellant's contention that the Council was overly influenced by the objections received. I do not find this to have been the case based on the information before me, observations from my site inspection and my conclusions set out in this decision.

Conclusion

19. For the reasons given above and considering all matters raised, I conclude that the proposal would result in unacceptable harm to the living conditions of the adjacent property Field Ways and the appeal is dismissed.

N Perrins

INSPECTOR