



Appeal Decision

Site visit made on 4 November 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2025

Appeal Ref: APP/J1535/W/25/3368996

4-4a Valley Hill, Loughton, Essex, IG10 3AA

- 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 SGBC London Ltd. (Summit Group Building Company) against the decision of Epping Forest District Council.
 - The application Ref is EPF/0313/25.
 - The development proposed is Demolition of existing buildings/structures and erection of 3 no. two-storey buildings to provide 1 no. commercial (Class E) unit fronting Valley Hill with a 2 bed flat above, 2 no. 2 bed dwellings at rear, and 2 no. 2 bed dwellings fronting Malvern Gardens.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development upon the character and appearance of the area;
 - whether or not the proposed development would provide satisfactory living conditions for the future occupiers with particular reference to outlook and light;
 - the effect of the proposed development upon the living conditions of neighbouring occupiers with particular reference to privacy;
 - the effect of the proposed development upon surface water run-off; and,
 - the effect of the proposed development upon highway safety.

Reasons

Character and appearance

3. This part of Valley Hill includes buildings of varying shapes, ages and forms typically in residential and commercial uses, with yard or garden areas to the rear. The existing building's two-storey commercial and residential use and its form is in keeping with the character and appearance of the area. The rear yard and single storey buildings differ from the appearance and plot layout of nearby dwellings that have modest front and quite long rear gardens with some ancillary outbuildings. However, the single storey heights and yard area enclosed by fencing and gates is partly reflective of modest buildings and gaps rear of buildings on Valley Hill, visible on the western side of Malvern Gardens and Kenilworth Gardens, which form part of the established pattern of development and character of the area.

4. To its northeast and southwest, and further south along Malvern Gardens and Rodding Road there is a more defined and rhythmic character, with generally two storey dwellings of a similar architectural styles with similar sized front and rear garden areas. Those on Malvern Gardens appear to be terraced blocks set back a similar distance from the road, with regular centralised front projections, front bay windows, and end houses having hipped roofs, typically in red brick, render and tiles, under pantile roofs. Though the appellant regards them as not of any significant architectural merit, they are still quite attractive and distinctive. Though there are some extensions and alterations, there remains a strong sense of rhythm, coherence and uniformity, which is a positive defining characteristic of the area.
5. The proposed new pair gable fronted dwellings would have architectural styling, forms, appearance and materials with very little coherence with or design reference to the distinctive prevailing character and appearance of Malvern Gardens, or Valley Hill. Though time and care have gone into their design, their forms, materials and visual appearance would be a prominent and stark departure from the prevailing character and appearance. They would appear highly incongruous and not relate well or sympathetically to buildings either side of them, and I do not consider them an overall improvement to the existing appeal site appearance.
6. They would be particularly prominent due to their siting noticeably forward of and at odds with the two-storey building line to the southeast. This more limited front space would also mean that even with features such as living roofs, with the cycle and bin stores structures, they would appear quite cramped, exacerbating their strident positioning. The departure from the defining characteristics of nearby buildings is not sufficiently justified, and these buildings would be significantly and harmfully at odds with the character and appearance of the area.
7. Behind those two new dwellings, the proposed two-storey rear of plot dwellings of a significant height and scale, and the limited garden space of all four houses, would appear highly incongruent with the pattern of development and the generally relatively open and spacious character rear of the highway fronting buildings. The arrangement would be highly visible as being significantly at odds with the surrounding pattern of development.
8. The two rear of plot dwellings and the flat would be accessed via quite long rear pathway that would feel rather secluded and enclosed for much of its length by No 6 and the bin stores. There would be some surveillance from two units, but a significant proportion would lack good surveillance. Gates and lighting might well reduce the risk of crime, but it would still not feel a particularly safe or attractive route for occupiers. Any benefits from the scheme in respect of safety and security over the existing site would be limited, and not mitigate this specific concern.
9. Suitably worded conditions such as in respect of materials, boundary treatments, landscaping, and ancillary structures, would not adequately mitigate the harm. The overall harm from the proposed development would be visible from a number of neighbouring properties on Malvern Gardens, Rodding Road, and a moderate section of the highway around the appeal site on Malvern Gardens.
10. For the reasons set out above, the proposed development would be significantly harmful to the character and appearance of the area. It would conflict with Policy DM9 of the Epping Forest Local Plan (2023) (EFLP) which requires development achieves a high quality of design that contributes to the distinctive character and

amenity of the area, relates positively to its context, having regard to matters such as form, rhythm, building lines, local architectural styles and detailing. It would also conflict with paragraph 135 of the National Planning Policy Framework (2024) (the Framework) insofar as this seeks that proposals add to the overall quality of the area, are sympathetic to local character and history including the surrounding built environment, and the fear of crime does not undermine quality of life.

11. Though the Council's reason for refusal refers to EFLP Policy DM10, as this appears to primarily relate to living and garden spaces, this is less relevant to this main issue than the policies I have set out above.

Living conditions – future occupiers

12. Flat 1 includes a single aspect bedroom that would directly face the side elevation of No 6/6A at a very short distance. The proximity and height of what appears to be a solid elevation would result in a somewhat oppressive and poor level of outlook from the window for the occupiers of the single bedroom. The height of the proposed skylight some way above that window, would very much be viewed as a secondary window. That and the remaining flat outlook would only part mitigate the harm, and the scheme would still result in an unsatisfactory outlook for occupiers.
13. I note the Council questions the light levels in the flat's dining area. Though a deep north facing room, it would be served by the sizeable front window from the living area and several skylights occupying a significant proportion of the roof above. The appellant's quantitative assessment indicates the light levels would be adequate, and as a whole, in my judgement this aspect of the proposal would not result in unsatisfactory living conditions for the future occupiers.
14. Though the Council makes passing reference to the flat kitchen, from the evidence before me and noting its function, the light levels and outlook would not result in unsatisfactory living conditions. The Council's second reason for refusal refers to all flats not receiving a good level of sunlight, but it appears only one dwelling can be classed as flat and I cannot see any other rooms specifically referenced in respect of light. The appellant's assessment finds that all habitable rooms would meet the target sunlight exposure and luminance values, compliant with standards set out in BRE Guidelines¹. I see no substantive reason to find that any other internal spaces would result in unsatisfactory living conditions in these regards.
15. The private garden areas of Units 1 and 2, while of a good width, would be quite shallow, and overall, modestly sized. Though some relief from the two-storey elevations Units 3 and 4 would be provided by the bin stores and pathway, it would be limited given the distances and scale of buildings. These garden spaces would feel rather cramped and oppressive, with limited outlook, and it would appear they might experience limited direct sunlight for much of the year. These spaces would not provide satisfactory living conditions for the future occupiers of Units 1 and 2.
16. Units 3 and 4 would have smaller private garden areas, which though a reasonable width, would also be shallow and overall, of a limited size. They would be enclosed by the elevation of their host building on most of two sides and an existing shelter to the rear. On the remaining side Unit 3 would also be enclosed by the elevation of the retail and flat building and would have limited direct sunlight for much of the year. The proximity and scale of surrounding structures mean they would feel

¹ Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, 3rd Edition 2022.

cramped and oppressive spaces with limited outlook, which would not provide satisfactory living conditions for the future occupiers of units 3 and 4.

17. Though each of the Unit 3 and 4 ground floor bedrooms would have large windows, the boundary would be very close to them, resulting a very cramped and confined outlook. This height and proximity would result in unsatisfactory living conditions from those bedrooms. The living/dining spaces look onto the main private garden from one window, but to the pathway and bin/cycle stores at a short distance from other main windows. Despite the large window coverage, and while the rear facing windows appear to meet the 25-degree rule, given the constrained outlook from other windows serving these large spaces, as a whole the living/dining spaces would not provide satisfactory outlook for the future occupiers.
18. Though it would appear the levels of light would be satisfactory, for the reasons set out above, the proposed development would not provide satisfactory living conditions for the future occupiers of the Flat and Units 3 and 4 with particular reference to outlook, and Units 1 – 4 in respect of private outdoor space. This would conflict with Policy DM9 of the EFLP which expects that proposals achieve a high quality of design and shall not result in an overly enclosed form of development which materially impacts upon future occupiers. It would also conflict with Framework paragraph 135f) which requires that development provides a high standard of amenity for existing and future users.

Neighbouring occupiers

19. Notwithstanding some quite general references in the third reason for refusal, from the Council's evidence, the specific concern is that a high-level window serving the first-floor bedroom of Unit 4 would harmfully affect the living conditions of the occupiers of No 2 Malvern Gardens due to, the opportunities for actual, or perceived overlooking, into the rear garden. This sizeable window would be close to the garden boundary.
20. The internal window height measurement is not fully clear from the evidence. I am not persuaded that future occupiers of a moderately above average height would not be able to gain some intrusive views of garden activities, or that internal furniture placement and the existence of other windows for outlook, are sufficiently mitigating factors. Moreover, even were it not possible for the occupiers to look out of the window without, its scale, position and proximity to No 2, it would very much give the feeling of being overlooked, resulting in some harm to the living conditions of the occupiers of No. 2. It is not clear that with obscure glazing that sufficient daylight and outlook would be received in that bedroom.
21. Therefore, for the reasons set out above, the proposed development would result in harm to the living conditions to the occupiers of No 2 with particular reference to privacy. This would conflict with Policy DM9 of the EFLP, which expects proposals achieve a high quality of design and avoids overlooking and loss of privacy detrimental to the living conditions of neighbouring occupiers. It would also conflict with Framework paragraph 135f), the relevant provisions of which I refer to above.

Surface water run-off

22. In combination Framework paragraphs 170 and 181 state that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk (whether existing or in the future), a development should be

made safe for its lifetime, and it is ensured that flood risk is not increased elsewhere. The site lies within Flood Zone 2, parts are at risk of surface water flooding, it is within a designated Critical Drainage Area (CDA), and it would introduce a more vulnerable land use. These are all circumstances in which Framework paragraph 181 states a Flood Risk Assessment (FRA) is necessary.

23. Paragraph 181 states that development should only be allowed in areas at risk of flooding where it is demonstrated it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed. Framework paragraph 182 states that applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal.
24. Policy DM15 of the EFLP has some similar objectives to the Framework and explains that an FRA will be required in accordance with national guidance and within CDAs. It is expected (amongst other things) that a specific assessment is made of risks, including appropriate modelling, surface water run-off will be managed and reduced, and a drainage strategy incorporating sustainable drainage systems is provided. However, while sought by the Council's Flood Risk Engineer, no FRA has been submitted.
25. The site is previously developed land and buildings but there are variances in surfacing and quite a significant area is artificial but did not appear impermeable. Though I note some suggested proposed surfacing and water storage solutions, the full details of existing surfacing, existing flood risks and depths, the capacity and nature of existing site drainage, and run-off rates is not detailed in the evidence. Therefore, it is not substantively demonstrated flows and run-off volumes would not be increased, there would not be greater risk of flooding to people or property either on or off the site, that sustainable drainage systems can be effectively incorporated, or that run-off is capable of being reduced.
26. Given the risks, the fundamental requirements of national policies, and local policies cited in reasons for the appellant's suggested condition, the limited on-site space, potential influence on the form of any approved scheme, and the absence of meaningful drainage and flood risk detail, I cannot be satisfied there is any prospect of compliance with a pre-commencement condition being achieved. Therefore, I cannot be satisfied any such conditions meet the Planning Practice Guidance and Framework tests of being reasonable.
27. Therefore, for the reasons set out above, I cannot be certain the appeal scheme would not result in increased surface water run-off or that it could be adequately mitigated. This would conflict with Policy DM15 of the EFLP, the relevant provisions of which I have set out above.

Highway safety

28. Policy T1 states that development will be permitted where, amongst other things, it can be demonstrated, where appropriate, that it does not compromise highway safety, and provides appropriate vehicle and cycle parking provision having regard to adopted standards. I am informed parking standards expect the development to provide 13 spaces. While this scheme would result in a gain of on-street spaces for around two cars, no off-street car parking spaces are proposed, resulting in a shortfall based upon the requirements of the new development.

29. The existing use will generate vehicles and might use on-street parking. However, aside of a reference to an off-street space, and generalised descriptions of the existing use, the evidence does not make fully clear site parking needs based on current standards, actual vehicle generation, current turning arrangements, or splays at the access. Therefore, it is not demonstrated the appeal scheme could result in an overall net benefit to highway safety. It may be appropriate to have regard to the existing site parking requirements based on the relevant standards, in working out a net change, however, it is not made clear what these are.
30. The appellant advocates the appeal scheme is to be car-free, although it is unclear how this could be secured. Malvern Gardens and some streets nearby did not appear to exhibit visible restrictions upon parking, such as being within a controlled parking zone, so I am not convinced that it would be possible to prevent occupiers of the proposed development from owning private cars.
31. I note the Framework sustainable transport policies and objectives, the analysis of the local transport network, bus stops, the underground station, and the services and facilities nearby. However, from the submitted evidence, even with a Sustainable Travel Information Pack, it is not demonstrated the public transport infrastructure, cycle parking, and level of services and facilities, would mean it is justifiable to significantly reduce parking requirements, or there would be certainty most if not all future residents would choose not to own private motor vehicles.
32. Neither party has provided a parking stress survey. While my visit can only represent a brief snapshot in time, I noted very few on-street spaces available on the surrounding streets I visited, and there could well be greater demand in the evenings when a greater proportion of residents may be at home. There is no substantive evidence to suggest that what I saw was untypical of the time of day.
33. Further cars would intensify pressure for spaces, with a potential knock-on effect for parking spaces further away, the potential for cars seeking to park in tight spaces, greater manoeuvring, and greater potential for user conflicts. This would be prejudicial to highway safety, and it is not demonstrated this would be mitigated or outweighed by other highway effects from the changes to the site.
34. From the evidence provided of the refused application at No 121 Rodding Road nearby, it would have had fewer net bedspaces and but a possible net increase in commercial floorspace. This seems to suggest it might generate a similar level of expected parking, but this is not clear, and the findings in the parking report referred to, are simply not explained. Therefore, while I note its recent date and close proximity, it was ultimately refused, and the evidence does not justify finding this proposal acceptable, which I have assessed upon its own merits from the specific evidence before me.
35. The Council refers to poorly laid out unattractive cycle parking but does not fully substantiate this. Though the Unit 1 and 2 parking might be regarded as being out of keeping with the area, it is not substantiated that all cycle parking shown, would necessarily make cycle ownership or its use unappealing. Furthermore, there would be some scope for revisions to it under suitably worded planning conditions.
36. Nevertheless, for the reasons set out above, I cannot be certain the appeal scheme would not be prejudicial to highway safety, in conflict with Policy T1 of the EFLP, the relevant provisions of which I have set out above.

37. Though the Council refers to a conflict with EFLP Policy DM9, as this primarily relates to the design attributes of a scheme, in-light of my findings above and because it does not refer to car parking provision or highway safety, I have not concluded against this policy under this main issue.

Other Matters

38. The appeal site is within a Zone of Influence of the Epping Forest Special Area of Conservation (the SAC). The appellant's Unilateral Undertaking seeks to secure payments to contribute towards avoiding or mitigating the effects of the appeal scheme in the form of payments towards green infrastructure, access management and air pollution from vehicles. In consultation responses, NE highlights the absence of a Habitat Regulations Assessment and questions some contributions.
39. Based upon the existing plans the appeal scheme is for a net increase in three or four dwellings, not five, so the UU might well secure a greater payment than required based upon the net dwelling increase. Were I to be satisfied, it would meet the CIL Regulations test of being necessary and on the basis the UU were to adequately secure the delivery of full and timely mitigation, the additional contributions might be regarded as a benefit attracting limited weight in favour of the appeal scheme.
40. The Council's ecological adviser suggests there is insufficient information to determine whether Bats are present and affected by the development, so a survey is necessary. However, there is no formal bat survey before me and the Council has not made clear its views on this matter. I also note the sequential test is raised by interested parties and the Council's Flood Risk Engineer, although neither the Council or the appellant explains how the requirements of development plan and Framework policies in this regard, have been satisfied. Were I to have found the development otherwise acceptable, these are both matters I would have pursued further with the main parties. The principle of passing the sequential test and ensuring no harm to protected species, would be neutral matters in the balance.

Planning Balance

41. The proposed development would result in moderate temporary economic benefits during construction. Upon completion, there would be some modest benefits from the provision of a new purpose-built Class E space, on-going spend in the local economy, and support to local services and facilities from link trips and new residents. The appellant's figures suggest a significantly greater Council housing target under government mandatory housing targets, comparatively low housing delivery, and potential future delivery issues due to constraints in the district. Although it is not fully substantiated how the view is arrived at that the tilted balance applies in the current circumstances in the district.
42. Subsequently, though not a ceiling, the Council considers it can demonstrate above a deliverable 5-year housing land supply, and has a housing delivery test result of 105%, which the appellant does not then subsequently disprove. As a small to medium previously developed site, in what would seem a relatively accessible location, even were I to take the view the appellant's housing need and supply position is correct, the provision of these new dwellings would be a benefit attracting moderate weight in favour of the appeal scheme.

43. Landscaping gains and the Biodiversity Net Gain Assessment concludes the scheme could provide an overall biodiversity net gain of around 61.58% in habitat units, compliant with relevant policies and legislation. Though a gain of this order would be quite significant numerically, given the limited value of the site and number of units proposed or that could be achieved, the potential benefits attract limited weight in favour of the proposal. The contribution towards SAC mitigation would attract limited weight in favour of the scheme. It is possible the scheme would secure a net reduction in energy use and could secure overall minor net benefits in respect of renewable energy generation. The substantive evidence in these regards suggest there would be limited benefits attracting limited weight.
44. Were I to agree the appeal scheme would, or subject to the imposition of suitably worded conditions could be made compliant with policies and standards in respect of matters such as the living conditions of future and neighbouring occupiers not referenced above, noise emissions, ventilation and heating, water and resource efficient build, air quality, refuse storage and collection, protected species, the sequential test, and contaminated land, these would be neutral matters in the balance. Overall, the policy compliance and benefits advanced attract moderate weight in favour of the proposed development.
45. However, the proposed development would be significantly harmful to the character and appearance of the area, which would be of a magnitude that attracts significant weight against the scheme. It would result in unsatisfactory living conditions for the future occupiers of some dwellings with particular reference private outdoor space provision and outlook, and neighbouring occupiers in respect of privacy, which are also important matters. I cannot be certain the appeal scheme would not result in increased surface water run-off which could be adequately mitigated, in conflict with the development plan and the Framework, which attracts significant weight against the scheme. Based upon the likely magnitude of the potential net effect upon highway safety, this attracts moderate weight against the appeal scheme.
46. Overall, the policy conflicts and harm from the proposed development attracts significant weight against the scheme, and would be such that the adverse effects significantly and demonstrably outweigh the scheme benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the appeal should not succeed.

Conclusion

47. The proposed development is contrary to the development plan read as a whole, and the Framework read as a whole. There are no considerations advanced, including the policies of the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR