



Appeal Decision

Site visit made on 10 January 2024

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 January 2024

Appeal Ref: APP/W1905/W/23/3319979

Land to the rear of 21 to 32 Doverfield, Goffs Oak, Waltham Cross, Herts EN7 5EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Doverfield Goffs Oak Ltd against the decision of Broxbourne Borough Council.
 - The application Ref 07/22/1013/F, dated 26 October 2022, was refused by notice dated 13 January 2023.
 - The development proposed is 9 dwellings comprising 4no. 2 bed, 4no. 3 bed and 1no. 4 bed with associated access drive, parking, paths, landscaping and boundary gates and fences.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (NPPF) has been updated twice since the Council made its decision. The latest version is dated 19 December 2023. The appellant and the Council have been given the opportunity to comment on this version and I have taken any responses into account. The same applies for the 2022 Housing Delivery Test results also published on 19 December 2023.
3. A completed Section 106 agreement dated 7 September 2023 was provided during the appeal process. Given my overall decision, I have not assessed the agreement in detail but, for the purposes of the planning balance, I have assumed that it would deliver the intended affordable housing units.

Main Issues

4. The site is located within the Metropolitan Green Belt. NPPF paragraph 154 regards the construction of new buildings as inappropriate development in the Green Belt unless one of several exceptions apply. The appellant and the Council agree that none of the exceptions apply in this case, including 154(f) relating to limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites). This is because the Broxbourne Local Plan 2020 (BLP) does not contain a relevant policy on this matter. Therefore, it is accepted that the proposal would be inappropriate development in the Green Belt.
5. On that basis, the main issues are as follows:
 - (a) the effect of the proposed development on the openness and purposes of the Green Belt;

- (b) the effect of the proposed development on trees; and
- (c) whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

Reasons

Green Belt openness and purposes

6. NPPF paragraph 142 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. NPPF paragraph 143 sets out five Green Belt purposes including (c) to assist in safeguarding the countryside from encroachment.
7. The appeal site contains a broadly rectangular field to the rear of residential properties on Doverfield and Pollards Close with an access point onto Doverfield. The field is currently very overgrown with vegetation but also has several mature trees on its eastern side as well as hedging and groups of smaller trees along the western and southern boundaries. A public right of way extends down the western edge of the field, connecting Goffs Oak with the wider countryside.
8. The site is enclosed by suburban development to the west and north, with allotments to the east and further fields to the south. The boundary vegetation screens views to and from the wider countryside, but the site is seen from the public right of way and the Doverfield access point. The size and undeveloped condition of the field can be readily appreciated from these locations. While the site is more urban fringe than wholly rural, it provides a green buffer or wedge on the southern side of the settlement and can be regarded as part of the countryside.
9. The proposed development would comprise a mixture of two storey detached, semi-detached, and terraced properties. Although areas of green space would remain for gardens and biodiversity purposes, spatially there would be sizeable built form across the site. In visual terms, the properties would be very noticeable from the public right of way along the western boundary and glimpsed from the access point.
10. The proposed development would have a limited effect on the openness of the Green Belt beyond the site due to the level of containment. However, it would still result in significant harm to openness within the site that would reduce the permanence of the Green Belt. There would also be conflict with the purposes of the Green Belt as there would be encroachment into the countryside.
11. NPPF paragraph 152 indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposed development would also result in harm in terms of the openness of the Green Belt and conflict with Green Belt purposes. NPPF paragraph 153 states that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. This balancing exercise is carried out below.

Trees

12. Many of the trees within the site are covered by a group Tree Preservation Order (TPO) with several mature Oak specimens as well as some Ash, Hornbeam and other species. While the Council has expressed concerns regarding the removal of mature trees, the appellant's Arboricultural Impact Assessment notes the need only to remove dead, diseased or young trees to facilitate the proposed development.
13. The remaining trees would form part of private gardens or site landscaping. There is no dispute that sufficient tree protection measures can be employed during construction but disagreement about pressure from future residents to remove or reduce the size of mature tree specimens. However, the proposed site layout would allow ample usable garden space with most trees located along property boundaries and set away from the roofs of buildings. Due to the TPO, most works are likely to require consent from the Council and each case would need to be assessed on its own merits.
14. Concluding on this main issue, the proposed development would have an acceptable effect on trees. Therefore, it would accord with BLP Policy NEB5 which, amongst other things, require applicants to demonstrate that a protected tree or hedgerow is dead, diseased or dangerous and in need of work on public safety and/or environmental grounds, and/or its removal is essential for the development of a site. The proposed development would also adhere to NPPF paragraph 136 which seeks to retain existing trees wherever possible.

Other considerations

15. The appellant notes that the Council can only demonstrate a 4.5 year supply of deliverable housing sites based on a recent appeal decision¹ and I have not been presented with evidence to the contrary. Furthermore, the Council's housing delivery test results have dropped from 72% of homes required over the previous three years in 2021 to a figure of 58% in 2022.
16. The appellant's evidence on affordable housing need has not been disputed by the Council. The BLP requires 40% of the 7,700 new homes by 2033 to be affordable. Supply is not keeping up with demand, with at least 1,400 households on the borough-wide housing register and around 500-600 households on the register in the Goffs Oak area alone. Site allocations for Goffs Oak in the BLP would only deliver 200 new dwellings in total. There is support locally for more affordable housing based on consultation responses to this proposal and interest from an affordable housing company. NPPF paragraph 82 supports housing developments that reflect local needs.
17. There is evidently a considerable shortfall in the supply and delivery of housing locally. The proposed development would deliver 9 dwellings of which 7 would be affordable units for shared ownership and intermediate rent. Although not a rural exception site, it would provide affordable housing on a small site not normally used for housing, which could benefit people locally depending on the wording of the Section 106 agreement. The development would thus make a moderate contribution to improving housing supply including affordable provision. Given the above context, this can be attributed significant weight.

¹ APP/W1905/W/22/3300254

18. The proposed development would result in a biodiversity net gain of 36% for habitats and 82% for hedgerows. As the Environment Act 2021 only requires a minimum of 10% biodiversity gain, such increases can be afforded significant weight. While the appellant contends that the development could be delivered in a timely manner, there is no mechanism to secure this such as a condition requiring a shorter commencement date. Therefore, I give this consideration little weight.
19. There is also limited information to demonstrate a very high standard of development in architectural and environmental terms, other than the housing would be tenure blind, and so this has little weight. Goffs Oak has a range of local services and facilities that can be accessed by foot or bike and is also served by buses. This carries moderate weight in favour of the proposal.

Planning balance

20. The proposed development would cause harm to the Green Belt due to its inappropriateness. It would also result in significant harm to Green Belt openness and conflict with the Green Belt purpose of safeguarding the countryside from encroachment. This carries substantial weight.
21. While significant weight can be attached to the delivery of housing including affordable units, as well as the levels of biodiversity net gain, this is insufficient to clearly outweigh the harm to the Green Belt even with the remaining other considerations added to the balance. The very special circumstances necessary to justify the proposed development do not exist. Consequently, the proposed development would not accord with BLP Policy GB1 which deals with Green Belt proposals in line with the NPPF, or the aims of the NPPF which seek to protect the Green Belt.
22. The Council's position regarding housing land supply and the housing delivery test triggers NPPF paragraph 11(d) where the most important policies for determining an application are deemed to be out of date. However, the application of Green Belt policies in the NPPF provides a clear reason for refusing the proposal and so the presumption in favour of sustainable development does not apply in this case.

Other Matters

23. Interested parties have raised various other matters in opposition to the proposed development. However, given my findings on the main issues, it has not been necessary to consider these matters in any detail.

Conclusion

24. For the above reasons, and having had regard to all other matters raised, I conclude that this appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR