
Appeal Decision

Site visit made on 31 January 2022

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2022

Appeal Ref: APP/F3545/W/21/3278937

**James Reinman Marine Ltd, The Broadway, Grimstone End, Pakenham,
Bury St Edmunds, IP31 2JG**

- 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 Mr James Reinman against the decision of West Suffolk Council.
 - The application Ref DC/20/1028/FUL, dated 22 June 2020, was refused by notice dated 3 March 2021.
 - The development proposed is Full Planning Permission for Erection of Three No Dwellings and Associated Works (Resubmission of Application Ref: DC/19/0514/FUL).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development on the planning application form and on the notice of decision issued by the Council differ. I have used the description given on the application form, as this is what was applied for, in this decision.
3. I note an agreement under s106 of the Town and Country Planning Act 1990 (s106) has been submitted to seek to address the reason for refusal related to the lack of a mechanism to deliver the affordable housing contribution. I shall deal with the compliance or otherwise of the s106 agreement with paragraph 57 of the National Planning Policy Framework (the Framework) and s122 of the Community Infrastructure Levy Regulations 2010 later in this decision, if necessary.

Main Issues

4. The main issues in this appeal are whether the appeal site is a suitable location for development having regard to the Policies of the development plan and the settlement strategy and whether the proposal a mechanism for the delivery of affordable housing within the District.

Reasons

Suitable location for development

5. The site lies in an area known as Grimstone End, a small collection of dwellings surrounded by open countryside. Grimstone End appears to have no services or bus services. The nearest settlements of any size are Ixworth and Pakenham.

6. However, the roads connecting these settlements with Grimstone End and therefore the appeal site are, for the most part, without footpaths and streetlights and are narrow. It would be difficult, and in some circumstances dangerous, to try and walk or cycle from the appeal site to either Ixworth or Pakenham.
7. The appeal site itself is set down from the Broadway and is currently used as a boat building yard. At the site visit I observed boats and equipment that were stored on a grassed area with some areas of hardstanding. There appears to be 1 significant storage/workshop building on the site.
8. The development plan for the area is comprised of the Local Development Framework – St Edmundsbury Core Strategy (December 2010) (CS), the West Suffolk Joint Development Management Policies Document (February 2015) (DMP) and the Rural Vision 2031 (September 2014) (RV). All these documents contain policies that are relevant to the appeal proposal.
9. Policy CS1 of the CS sets out the spatial strategy for the area. It is clearly a strategic policy, however it sets out a strategy directing the majority of development to the main towns of the District and recognises the opportunities to use previously developed land, through a sequential approach. This strategic approach is translated into the pattern of development within the District through Policy CS4. Policy CS4, amongst other things, does not identify Grimstone end for growth. Policy RV3 of the RV allows for development within development boundaries. Grimstone End does not have a development boundary. Therefore, and in accordance with the policy it lies in the countryside.
10. Policy DM5 of the DMP sets out how development in the countryside will be assessed. It is a relatively flexible policy, and as well as the common exception such as agricultural workers dwellings and replacement dwellings, it recognises that small scale housing might be appropriate in the countryside in certain circumstances. Those circumstances are set out in detail in DM27 and amount to single or a pair of semi-detached houses in a close-knit cluster of 10 or more dwellings adjacent to or fronting a highway. Furthermore, the proposed development must be commensurate in scale and character to the existing dwellings and within an otherwise continuous built-up frontage.
11. Consequently, as the appeal site lies in the countryside, it is not consistent with the definition of small scale as set out in DM5/DM27 as it constitutes a higher number of dwellings than envisaged by the Policies. Moreover, whilst there are some dwellings near to the site these are of a different size and character to the proposed dwellings. Neither is it part of a continuous built frontage. I therefore find that the appeal proposal is in conflict with these Policies of the development plan.
12. It has been suggested by the appellant that Policies CS4 and DM5 are out of date. This is because they are not consistent with the Framework as they do not reference 'previously developed land' and they are too strict in limiting housing development in the countryside. I do not agree.
13. The development plan needs to be read as a whole. CS1 sets the strategy which guides Policies CS4 and DM5. CS1 specifically mentions the opportunities to use previously developed land (brownfield land) as part of a sequential approach. Moreover, the Framework at paragraph 120 c) refers to giving

substantial weight to the value of using brownfield land within settlements. As I have already outlined, I do not consider the appeal site to lie within a settlement as it is in the countryside in terms of the definitions in the policies. Consequently, I find that Policies CS4 and DM5 are broadly consistent with the Framework with regard to brownfield land.

14. With regard to how strict the policies are in restricting new housing development in the countryside I have already referred to the policies as being flexible. I have evidenced this by showing that they allow for a degree of housing development in the countryside subject to certain criteria. Paragraph 79 of the Framework emphasises the need for housing development in rural areas to be located where it will enhance or maintain the vitality of rural communities. I consider that through the flexibility allowed in Policies CS4 and DM5 for the provision of new housing in the countryside, this is allowed to occur. As a result, I find that the policies are consistent with the Framework in this regard and therefore should be given full weight in the determination of this appeal.

15. Overall, for the reasons given above, I find the proposal is in conflict with Policies CS1 and CS4 of the CS, DM5 and DM27 of the DMP and RV3 of the RV.

Affordable housing

16. I note that I have received a signed s106 agreement relating to the provision of a contribution towards affordable housing by the appellant to the Council. I also note that the objection raised by the Council to the appeal proposal at reason for refusal No2 related to the lack of a mechanism to secure a contribution to the development for affordable housing in the area.

17. I therefore conclude that the main issue related to the lack of a mechanism for the delivery of a contribution towards affordable housing is now resolved.

Planning Balance

18. The appellant has argued that the proposal would remove a commercial use from the proximity of nearby residential dwellings and thereby remove any nuisance that might be caused to their living conditions. I recognise that this might be an advantage of the development. However, it is not clear to me that the site benefits from a lawful commercial use. As that matter is not before me, I cannot reach a conclusion as to whether a lawful commercial use is or could operate from the site or whether such a use might cause harm to the living conditions of the neighbouring residential occupiers. In view of this I give this matter limited weight in this decision.

19. I note the proposal would utilise an area of brownfield land. However, whilst the Framework recognises the value of using suitable brownfield land within settlements, I have already concluded that this land is not within a settlement. Therefore, this part of the Framework is of little relevance to the appeal proposal. I therefore give it limited weight in this appeal.

20. The appellant has further proposed that the development would enhance or maintain the vitality of Grimstone End. I have no evidence that there are facilities in Grimstone End which would benefit from the presence of additional people in the area. Indeed, it appears to me that in order to access facilities the occupants of the dwellings would need to travel out of the settlement. It is not clear given the proximity of Ixworth, Pakenham and Bury St Edmunds to

the site where the occupants of the dwellings would travel to in order to access facilities. However, it is clear to me that they could not access the facilities they require in Grimstone End. Consequently, I give limited weight to this argument.

21. It has also been argued that the appeal proposal would present an opportunity to decontaminate the land. I understand that it has been in commercial use for some time. The remediation of the site does not appear to be specifically required or urgent. In reaching this conclusion I have had regard to both the desk study that has been submitted with the appeal and the consultation response from the Council's Environmental Health Officer. The consultation response stated that should the application be granted it would present an opportunity for the site to be appropriately investigated and (if necessary) remediated. I recognise this as a benefit of the proposal, but in the absence of evidence of contamination that requires remediation I give this matter limited weight in this appeal.
22. I have also had regard to the appellants view that this offers the only development option in view of the viability assessment. Whilst it is not my role to speculate on what uses might be appropriate on the site I do not consider, given the range of uses which could be explored, that the appeal proposal represents the only option for development. I therefore give this argument limited weight in this decision.
23. I recognise that new development can bring economic benefits to an area both during the construction phase and through additional spend in local businesses once the dwellings are occupied. However, I consider these benefits would be strictly limited given the scale of the development and the lack of nearby facilities. I therefore give this argument limited weight in this decision.
24. I also note that the development would contribute to the housing land supply in the District, contribute to the provision of affordable housing and Community Infrastructure Levy. However, given the position of the Council with regard to a 5-year supply of deliverable housing sites, and the relatively small scale of the proposal, I give this matter limited weight in this decision.
25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal proposal is determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal is in conflict with its policies. I have also found that the policies which are the most important in determining the appeal are up to date. I therefore give them substantial weight in the determination of this appeal. I have assessed the material considerations advanced by the appellant and have found that they are of insufficient weight for the appeal to be determined other than in accordance with the development plan.

Conclusion

26. I therefore find that the appeal should be dismissed.

Peter Mark Sturgess

INSPECTOR