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## Appeal Decision

Site visit made on 27 January 2020

**by M Chalk BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 February 2020**

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**Appeal Ref: APP/P0240/W/19/3237944**

**Land south of Amber Lodge, Hatley Road, Wrestlingworth SG19 2EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr & Mrs Webb against the decision of Central Bedfordshire Council.
  - The application Ref CB/19/01407/PIP, dated 12 April 2019, was refused by notice dated 18 June 2019.
  - The development proposed is described as “residential development”.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal proposal seeks Permission in Principle. This consent route has two stages, the first establishing whether a site is suitable in principle, and the second where the detailed development proposals are assessed. This appeal proposal is at the first stage, and therefore I have considered the principle of the scheme. The scope of permission in principle is limited to location, land use and amount of development.
3. In respect of residential development an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application. In this instance it is clear from the application form, Council’s decision notice and the appeal form that permission in principle has been sought for one dwelling on the appeal site. I have determined the appeal on that basis.
4. Both main parties have referred to the emerging Local Plan in their submissions. However, I have no information to suggest when the plan is likely to be adopted, and accordingly I have given it limited weight in determining this appeal.

### Main Issue

5. The main issue is whether the principle of the proposed development is acceptable in this location with specific regard to its effect on the character and appearance of the surrounding area and countryside.

## Reasons

6. The appeal site comprises a broadly rectangular parcel of land to the south of Amber Lodge. It is common ground between the two main parties that the site lies outside of the settlement of Wrestlingworth, and therefore for planning purposes is in the countryside. The development plan states that residential development in the countryside will generally be considered inappropriate, and not permitted.
7. The appeal site is approached from the corner of Hatley Road and High Street. Amber House is set well back from the road along a driveway from which access to the appeal site would be taken. The character of the immediate area within the settlement is otherwise of predominantly lineal development with most houses set close to the road frontage, allowing for the brook that runs along the High Street and which is crossed by the driveway. The settlement envelope established under Policy DM4 of the Central Bedfordshire Core Strategy and Development Management Policies November 2009 (the CS) is tightly drawn and suggests a densely populated core with larger plots towards the settlement outskirts.
8. The appeal site is part of the garden to Amber Lodge. I saw during my site visit that Amber Lodge and its associated outbuildings are a prominent feature of the wider site, while the appeal site is mainly laid to grass with no permanent structures, although there is a fenced in pond occupying part of the site. The appeal site is open with low boundary fencing and hedgerows to three sides offering views to the countryside beyond. The precise siting of the proposed dwelling on the site is not before me to consider, although the appellants have indicated that the need to avoid the risk of surface water flooding could see the proposed dwelling set back a similar distance from the road to Amber Lodge. This is indicative only, and I have considered the whole site in my determination of the appeal.
9. The existing extent of built development on the wider site is concentrated primarily around Amber Lodge. While the appeal site is part of the garden to Amber Lodge, I consider that its size, openness and undeveloped nature results in a distinct rural character, especially when seen in the wider context of the surrounding countryside. The development proposed would significantly extend the scale of residential development within the wider site and reduce the openness of the appeal site. This would be harmful to its rural character and to the character of the wider countryside.
10. The appellants have suggested that the site would be well-screened with little visibility of the development proposed in the wider area and would respect the varied character of the area subject to approval at the second stage. However, I consider that it would be visible from the corner of Hatley Road and High Street, as well as from neighbouring properties. While the boundary screening would limit visibility, the proposal would introduce an additional dwelling in a location not in keeping with the established pattern of development in the area. Details of appearance, scale and materials of the dwelling are not for my consideration at this first stage.
11. The appellant has suggested that the proposal could be treated as an infill development. The supporting text to CS Policy DM4 states that, among other things, infill development can be defined as small-scale development utilising a vacant plot. As the appeal site is in use as part of the garden to Amber Lodge

and is not vacant I do not consider that the appeal proposal would accord with this policy.

12. The appellants have referred to the extension of Braggs Lane, Alexander Road, Victoria Close and Butchers Lane into the countryside from the lineal form of the village. However, I have no evidence before me regarding the circumstances or the timing of those developments and they are now each within the defined settlement envelope so differ from the proposal before me. I cannot therefore give much weight to them in determining this appeal.
13. The appellants have also drawn my attention to the dwellings at Nos 26, 28 and 30 Hatley Lane. Based on the evidence before me these houses lie outside of the settlement envelope, although they are proposed for inclusion under Policy SE1 of the Wrestlingworth and Cockayne Hatley Neighbourhood Plan November 2017 (the NP). I do not have in evidence before me the planning circumstances of these dwellings. However, I note that they form a relatively small extension to the settlement on land constrained between the road and the brook, and in the case of Nos 26 and 30 the houses are sited quite close to the road. They therefore differ materially from the proposal before me.
14. Having considered these matters I therefore conclude that the principle of the proposed development is not acceptable due to its effect on the character and appearance of the surrounding area and countryside. The proposal therefore conflicts with Policies DM4, CS14, CS16, DM3 and DM14 of the CS and Policies SE1 and BE2 of the NP. Together these policies require, among other things, that new development respect local context and conserve and enhance varied countryside character and local distinctiveness.

#### *Other Matters*

15. The appellants have suggested that the appeal proposal would deliver benefits in the form of additional housing in a sustainable location with access to services and facilities in Wrestlingworth and the surrounding villages. The ongoing occupation of the proposed development will contribute to the local economy and community. There would be a short-term economic benefit from the construction. The scale of development is considered by the appellants to reflect the scale of Wrestlingworth and be an effective use of the land. The proposed dwelling can be located within the site in an area not at risk of flooding. The appeal site is served by a safe highway access. I note as well that there is some local support for the proposed development. I recognise that there would be benefits arising from the appeal proposal, but I do not consider that these would outweigh the harm that I have identified.
16. The appellants have drawn my attention to 2 appeal decisions relating to development within the countryside in the district. While one of these was for 145 dwellings and therefore a materially different proposal to the one before me, I note that in both cases conflict was found between national policy and the relevant policies in the CS. In response the Council has provided 3 appeal decisions in which support was given to countryside policies in the CS. I have reviewed these decisions in determining this appeal, but I must determine this appeal based on its own merits and on the evidence before me. I shall return to this matter in the Planning Balance below.
17. The appellants have suggested that the appeal site is a domestic garden and should have been included within the extensions to the settlement envelope set

out in the NP. The NP has been adopted following consultation and independent examination, during which it was found to be sound. It is not within the remit of this appeal to determine the appropriateness of boundary extensions.

18. Both parties have referred to previous planning permissions that relate to the appeal site. Based on the evidence that has been submitted, these decisions would not limit a grant of permission for the development proposed, were I minded to allow this appeal.

### *Planning Balance*

19. Paragraph 11 of the National Planning Policy Framework (the Framework) states that where the most important development plan policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. It is a material consideration where there are no relevant development plan policies.
20. For the purposes of this appeal the development plan comprises both the CS the NP, with policies from both documents referred to in the decision. I shall address the policies identified in the decision notice in turn.
21. Policy DM4 of the CS establishes boundary envelopes to clearly separate settlements and countryside within the District. The supporting text states that the envelope does not attempt to define the extent of a settlement, but to protect the countryside from inappropriate development. This approach is not wholly consistent with the Framework. Due to this conflict I consider that it is out of date and have not afforded it full weight in considering this appeal.
22. Policy SE1 of the NP addresses the settlement envelope for Wrestlingworth. It proposes additions to the envelope originally set out under CS Policy DM4. It was adopted after the introduction of the first version of the Framework in March 2012. The 2012 Framework contains similar wording in relation to housing development in the countryside to the current 2019 Framework. The supporting text for NP Policy SE1 follows the approach of directing development towards the settlement envelope but does not preclude development beyond it. I therefore consider that this Policy is consistent with the Framework and not out-of-date.
23. Policies CS14 and DM3 of the CS require new development to be of the highest quality and provide criteria against which new development will be assessed. Policy CS16 and DM14 of the CS require new development to conserve and enhance the varied countryside character and local distinctiveness and state that they will be assessed against their impact on the landscape. Policy BE2 of the NP requires development proposals to be of a high standard of design and provides criteria against which development will be assessed. I find that these policies are consistent with the Framework and not out-of-date.
24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations dictate otherwise. Full weight cannot be given to CS Policy DM4 in the determination of this appeal. However, there would be conflict with Policies CS14, CS16, DM3 and DM14 of the CS and NP Policies SE1 and BE2 due to its effect on the character and appearance of the surrounding area and countryside and I consider these to be the most

important policies for the purposes of the determination of this appeal. Taking these matters into consideration I am satisfied that the presumption in favour of sustainable development identified in paragraph 11 of the Framework is not engaged in this instance. The development proposed should therefore be judged against the provisions of the development plan as a whole in accordance with Section 38(6), as well as paragraph 47 of the Framework.

25. I have found that the principle of a dwelling in this location would be out of keeping with the established pattern of development in the area. Any dwelling erected in this location would also be an intrusive and incongruous feature within the countryside. I recognise that there would be benefits associated with the development proposed. However, when considered against the provisions of the development plan as a whole these would not outweigh the harm that would result from a new dwelling in this location.

### **Conclusion**

26. For the reasons given above I conclude that the appeal should be dismissed.

*M Chalk*

INSPECTOR