

## AGENDA ITEM NO: 8/3(r)

<b>Parish:</b>	<b>Wereham</b>	
<b>Proposal:</b>	<b>Construction of two cottages following removal of existing agricultural building</b>	
<b>Location:</b>	<b>Land Opposite the Bungalow Bens Lane Wereham Norfolk</b>	
<b>Applicant:</b>	<b>Ms R Hobbs And Ms J Dearsley</b>	
<b>Case No:</b>	<b>15/01944/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Mrs H Morris</b>	<b>Date for Determination: 27 January 2016</b>

**Reason for Referral to Planning Committee** – A previous application for a pair of semi-detached cottages on the land was dismissed at appeal in 2011 (10/02101/F)

### **Case Summary**

The application site lies on the western side of Bens Lane, Wereham and currently comprises a steel framed agricultural building.

The site lies within the countryside, just outside the Built Environment, as defined by the King's Lynn and West Norfolk Local Plan (1998) Inset Map for Wereham. However, it is within the proposed development boundary of the settlement set out in the Site Allocations and Development Management Policies – Pre-submission Document (2015). The site also lies partially within the Wereham Conservation Area.

Wereham is defined as a Rural Village under the settlement hierarchy of Policy CS02 of the Council's adopted Core Strategy (2011). However, this is currently considered out-of-date given that this Council does not currently have a five year supply of deliverable housing sites.

The application is for the construction of two cottages following removal of the existing agricultural building. A similar application for a pair of semi-detached cottages was refused and later dismissed at appeal in 2011 on the grounds that it would not accord with the provisions of Policy CS09 of the Core Strategy (2011) relating to Rural Villages.

### **Key Issues**

The key issues identified in the consideration of this application are as follows:

Principle of development;  
Form and character;  
Neighbour amenity;  
Highway safety;  
Other considerations; and  
Crime and disorder

### **Recommendation**

**APPROVE**

## **THE APPLICATION**

The application seeks approval for the construction of two cottages following removal of the existing agricultural building. A similar application for a pair of semi-detached cottages was refused and later dismissed at appeal in 2011 on the grounds that it would not accord with the provisions of Policy CS09 of the Core Strategy (2011) relating to Rural Villages. However, given that this Council does not currently have a five year supply of deliverable housing sites, policies relating to the supply of housing are currently considered out-of-date.

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## **SUPPORTING CASE**

A Design and Access Statement (DAS) and Planning and Heritage Statement (PHS) have been submitted in support of the application.

These state that Conservation Area consent to remove the existing building was granted in 2011 (10/02102/CA). However, the building was not removed because the permission sought to redevelop the site was refused and later dismissed at appeal.

The documents go on to advise that the site is within the Conservation Area of Wereham. This was probably because there were originally old farmyard buildings on the site when the Conservation Area was designated in 1977. The current farm building, nothing more than a large covered yard, was brought from elsewhere and erected by a previous land owner in about 1978. This steel-framed cattle yard structure, with cement fibre sheeting, has a central curved roof up to about 8 metres high, with lean-to yard roofs on both sides. From the A134 roundabout and onwards into Wereham this building is visible but not prominent, since it is seen down a slope and at a distance against trees and houses. However, standing within the Conservation Area and seen from the pond and from the church gate and war memorial, this is a dark, prominent and completely obtrusive structure filling the skyline at the end of Ben's Lane and dominating the cottages and houses on either side. There is a specific photograph showing this in the Conservation Area character statement [page 10] and it is clearly a 'Detracting' element.

The PHS states the intention of this application is to bring the site back into some use, to improve the overall appearance of the site and its relationship with neighbouring properties and, overall, to enhance the Conservation Area. It is not considered that the proposal will have any effect on Heritage assets.

The DAS advises that Ben's Lane is a public highway up to the back of the Chapel house, and a single track private roadway with asphalt and then a stone surface thereafter, giving access to two existing dwellings and secondary access to the recreation ground. County Highways raised no adverse comments on the previous application 10/02101/F for two dwellings, stating that it was considered that there would be little highway impact.

In the last Local Plan (1998) the site was excluded from the village development area. The previous planning decisions relied heavily on the local policies and National PPS's in force at the time. The appeal decision relied on the then recently adopted 2011 Core Strategy. In that Core Strategy Wereham was designated a "Rural Village", although the actual village development boundary was not then agreed. The Appeal Inspector made the assumption that the application site would not be included in the village development boundary.

However, in the latest Site Allocations and Development Management Policies as now under examination prior to adoption, the application site is now included within the village development boundary.

Since the previous planning and appeal decisions, therefore, much has changed. The National PPS's were replaced by the NPPF in 2012 and the Local Policy, soon to be adopted, now includes the site as part of the village.

Regardless of all of that, Planning Policy CS02 of the Borough Council's Core Strategy (2011) is, in accordance with the NPPF (2012), now out of date, given that the Council does not currently have a five year housing supply. Therefore, there are no current relevant Local Plan policies.

This proposal will, therefore be determined with reference to the NPPF para 14, with presumption in favour of sustainable development. It is considered that this proposal is indeed sustainable development, making use of a previously developed 'brownfield' site within an existing community.

It has been previously established that to remove the large existing structure would be beneficial to all. The landscape impact of the proposed cottages would be materially less than the present structure, because their mass, profile, and floor area would all be less than the covered yard, and their shape and purpose would relate to the varied other housing adjacent the site.

The new cottages would be a significant improvement for the amenity of the occupier of The Bungalow in Ben's Lane, which is seasonally overshadowed and is dominated by the existing structure. From the A134 the view is at first partially interrupted by an Oak tree on a field boundary, and this suggests that there could be additional trees planted in the field boundaries beside the road, with further benefit to the setting of the village.

The design is based upon a small cluster of farmyard buildings, with differing roof levels and the roofs forming the dominant feature at the rear. The linked buildings, from the A134, looking integrated into one 'yard' rather two separate residential dwellings. The eaves and ridgeline are kept low and detailing in accordance with the local vernacular.

The present view from the A134 reveals how stark and noticeable are the village roofs with modern clay pantiles, and consequently on this site it is intended to use a natural blue grey slate to blend with the surroundings. The Hoskins Old Duxford facing bricks are a blended, tumbled and textured brick, with the appearance of a reclaimed brick. The linking rear wall, visible from the A134, will be faced with local brown field flints laid in random pattern to match local walling in the village.

## **PLANNING HISTORY**

10/02102/CA: Application Permitted: 16/03/11 - Demolition of existing agricultural building.

10/02101/F: Application Refused: 07/02/11 Appeal Dismissed: 31/10/11- Demolition of existing agricultural building and construction of one pair of semi-detached cottages

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09/00902/F: Application Refused: 17/12/09 - Construction of two dwellings following demolition of existing agricultural building.

## **RESPONSE TO CONSULTATION**

**Parish Council: SUPPORT** Wereham Parish Council has supported this application at all previous stages and continues to support it.

**Norfolk County Highways: NO OBJECTION** Benns Lane becomes a private section of road, beyond the extent of its carriageway surfacing at a point near to Chile House. Therefore, your authority would need to consider if the Lane, from this point onwards will be appropriate for the proposed development.

Leading up to the private section, Benns Lane narrows from St Margaret's Hill along its length to the extent that two vehicles cannot pass, and therefore should cars meet some reversing would be required.

Given that this area is however very quiet and traffic speeds will be low following any construction, I believe that the highway impact would ultimately be one of inconvenience rather than an issue of significant highway safety.

I am conscious that the site will have an existing traffic generation attributed to its existing class use and the building is large. Therefore, on balance I believe it would be difficult to substantiate an objection to the proposal submitted on highway safety grounds.

**Stoke Ferry Internal Drainage Board: NO OBJECTION**

**Environmental Health & Housing – Environmental Quality: NO OBJECTION** subject to imposition of contaminated land and asbestos conditions.

**BCKLWN Conservation: NO OBJECTION** The existing building is not at all attractive and its loss is not an issue. The site lies partially within the conservation area at the end of a track which connects the centre of the village with open fields beyond. It is also quite elevated so the buildings will be seen from both directions but will be particularly visible from the A134- whereas most of the village is hidden in the dip of the land. The backs are therefore as important as the front in this instance.

An earlier application which was refused in part because the proposed dwellings were "an anywhere design" which would not maintain or enhance the character and appearance of the Conservation Area.

This revised proposal represents a huge improvement and I think that the design and layout of the two new dwellings will sit comfortably on the site and enhance the character of the CA. Notwithstanding the information provide I would suggest conditions requiring sample panels of materials and joinery details.

## **REPRESENTATIONS**

**FOUR** letters of **SUPPORT** have been received from local residents. The reasons for their support can be summarised as follows:

- This would improve the village aesthetically particularly as the present agricultural buildings are very unsightly. I have a view of this building from my upstairs windows and feel that houses would improve the outlook greatly.
- When one enters the village by the main road from King's Lynn how horrible this old barn looks a blot on the edge of the Conservation area. How much better it will look if a pair of quality houses are built here for 2 village families, who have spent their entire young lives in this Parish. This is a first class proposal and receives my total support.
- This will significantly enhance the area and provide good quality housing for long standing Wereham residents.

## **NATIONAL GUIDANCE**

**National Planning Policy Framework** – sets out the Government's planning policies for England and how these are expected to be applied.

**National Planning Practice Guidance** - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS11** - Transport

**CS12** - Environmental Assets

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PRE-SUBMISSION DOCUMENT**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

## **PLANNING CONSIDERATIONS**

The key issues identified in the consideration of this application are as follows:

- Principle of development;
- Form and character;
- Neighbour amenity;

- Highway safety;
- Other considerations; and
- Crime and disorder

### **The Principle of Development**

Wereham is defined as a Rural Village under the settlement hierarchy of Policy CS02 of the Council's adopted Core Strategy (2011). A previous proposal for a pair of semi-detached cottages was refused and later dismissed at appeal in 2011 (10/02101/F) on the grounds that it would not accord with the provisions of Policy CS09 of the Core Strategy (2011) relating to Rural Villages. However, these policies relating to the supply of housing are currently considered out-of-date given that this Council does not currently have a five year supply of deliverable housing sites.

Paragraph 49 of the National Planning Policy Framework (NPPF) states that in such cases housing applications should be considered in the context of the NPPF's presumption in favour of sustainable development. Paragraph 14 of the NPPF further advises that where relevant local 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 of the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

In light of the above and also taking into account that the application site lies within the development boundary of Wereham as proposed by the Site Allocations and Development Management Policies – Pre-submission Document (2015), the principle of development is generally considered acceptable provided that the proposal complies with all other relevant planning policies.

### **Form and Character**

The site lies partially within the conservation area at the end of a track which connects the centre of the village with open fields beyond. The existing agricultural building is unattractive and does not provide any positive contribution to the conservation area, therefore its removal is to be encouraged.

The proposed design and layout of the units is a significant improvement to the scheme previously refused and dismissed at appeal in 2011 (10/02101/F) and would enhance the character of Wereham conservation area. The site is quite elevated so the proposed dwellings will be seen from both directions and will be particularly visible from the A134, whereas most of the village is hidden in the dip of the land. The rear elevations of the proposal are therefore just important as the front in this instance and it is considered that their appearance would not have any detrimental impact on the landscape.

It is however recommended that should planning permission be granted, conditions are imposed requiring approval of a sample panel of materials and window details.

### **Neighbour Amenity**

The nearest neighbouring properties are The Bungalow which lies directly opposite the site on the eastern side of Bens Lane and Willow View and The Old Chapel which lie to the south.

Overall it is considered that the proposed dwellings would be likely to have less impact on surrounding neighbouring properties than the existing large agricultural building which is proposed to be removed.

Although Plot 1 would have a first floor flank elevation bedroom window on its southern side, the separation distance between Willow View would be more than sufficient to prevent any undue overlooking or loss of privacy. The separation distance between the proposed dwellings and The Bungalow and The Old Chapel is also considered sufficient to prevent any significant harm to residential amenity.

### **Highway Safety**

Norfolk County Highways have been consulted on the proposed development.

Bens Lane becomes a private section of road beyond the extent of its carriageway surfacing at a point close to Chile House. Leading up to the private section, Bens Lane narrows from St Margaret's Hill along its length to the extent that two vehicles cannot pass, therefore should cars meet some reversing would be required. However, given this area is very quiet and traffic speeds will be low, Norfolk County Highways consider that any highway impact would be one of inconvenience rather than a significant highway safety issue.

Furthermore, the site will have an existing traffic generation attributed to its existing agricultural use and the building currently on site is large. As a result, Norfolk County Highways raise no objection on highway safety grounds.

### **Other Considerations**

There is a mature Oak tree situated in the south west corner of the site that is proposed to be retained, as confirmed by the submitted Tree Report. Should planning permission be granted it is recommended that a condition be imposed to secure its protection during construction works.

There are no other material considerations relevant to this application.

### **Crime and Disorder**

There are no crime and disorder issues raised by this proposal.

### **CONCLUSION**

The proposed development would result in the provision of 2 no. new dwellings on a site that is within the proposed development boundary of Wereham within the Site Allocations and Development Management Policies – Pre-submission Document (2015). As a result, the principle of development is now considered to be acceptable and the design and layout of the scheme would be in keeping with the established form and character of the area and enhance the Wereham Conservation Area. Furthermore the proposal would not have any material impact on residential amenity or highway safety.

The proposed development therefore complies with the provisions of the National Planning Policy Framework (2012), Policies CS01, CS06, CS08, CS11 and CS12 of the adopted Core Strategy (2011) and draft Policies DM2, DM15 and DM17 of the Site Allocations and Development Management Policies – Pre-submission Document (2014). It is therefore recommended that planning permission be approved subject to the conditions set out below.

### **RECOMMENDATION:**

**APPROVE** subject to the imposition of the following condition(s):

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- 1 Condition The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. 12011; 12012; 12013; 12014; 12015; 12016; and 12017 received by the local planning authority on 1st December 2015.
- 2 Reason For the avoidance of doubt and in the interests of proper planning.
- 3 Condition No development shall commence on any external surface of the development until a sample panel of the materials to be used for the external surfaces of the building(s) and/or extension(s) hereby permitted has been erected on the site for the inspection and written approval of the Local Planning Authority. The sample panel shall measure at least 1 metre x 1 metre using the proposed materials, mortar type, bond and pointing technique. The development shall be constructed in accordance with the approved details.
- 3 Reason To ensure a satisfactory external appearance and grouping of materials in accordance with the principles of the NPPF.
- 4 Condition No development over or above foundations shall take place on site until full details of the window style, reveal, cill and header treatment has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4 Reason To ensure that the design and appearance of the development is appropriate in accordance with the principles of the NPPF.
- 5 Condition Prior to the commencement of groundworks, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
  - (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets,
    - woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

- 5 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This needs to be a pre-commencement condition given the need to ensure that contamination is fully dealt with at the outset of development.
- 6 Condition Prior to the commencement of groundworks, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 6 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This needs to be a pre-commencement condition given the need to ensure that contamination is fully dealt with at the outset of development.
- 7 Condition The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 7 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This needs to be a pre-commencement condition given the need to ensure that contamination is fully dealt with at the outset of development.
- 8 Condition In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 5, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 7.

- 8 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 9 Condition Prior to first occupation of the development hereby approved evidence of the treatment or safe removal and disposal of the asbestos containing materials at a suitably licensed waste disposal site shall be submitted to and approved by the local planning authority.
- 9 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of land after remediation.
- 10 Condition No development or other operations shall commence on site until the existing trees and/or hedgerows to be retained have been protected in accordance with the submitted Tree Report. The scheme shall provide for the erection of fencing for the protection of any retained tree or hedge before any equipment, machinery, or materials are brought on to the site for the purposes of development or other operations. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.
- 10 Reason To ensure that existing trees and hedgerows are properly protected in accordance with the NPPF. This needs to be a pre-commencement condition given the potential for damage to protected trees during the construction phase.



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## Appeal Decision

Site visit made on 4 October 2011

**by Andrew S Freeman BSc(Hons) DipTP DipEM FRTPI FCIHT MIEEnvSc**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 31 October 2011**

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**Appeal Ref: APP/V2635/A/11/2150727**

**Ben's Lane, Wereham, King's Lynn, Norfolk, PE33 9AN**

- 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 Ms Rachael Hobbs and Ms Joanne Dearsley against the decision of King's Lynn and West Norfolk Borough Council.
  - The application Ref 10/02101/F, dated 10 December 2010, was refused by notice dated 7 February 2011.
  - The development proposed is demolition of existing agricultural building and construction of one pair of semi-detached cottages.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The site inspection into this case was scheduled to be a visit accompanied by a representative of both the Council and the appellant. However, the Council's representative did not turn up. After contacting the Council's offices, and waiting for a short while, I proceeded on the basis of an unaccompanied site visit.

### Main Issue

3. The main issue is whether development of the nature proposed would be appropriately located.

### Reasons

4. At the heart of this decision is the up-to-date policy context. This has changed since the decision of the Council on the appeal application in that the Core Strategy for the Borough has now been adopted. In addition, housing allocations at Wereham and the development boundary for the village are to be considered under the emerging Site Specific Allocations Development Plan Document (DPD).
5. Examination of the Proposals Map indicates that, at the moment, the appeal site is outside the settlement boundary of Wereham and that "countryside" policies should apply. However, the appellant indicates that the site is within the built development limits of the village and that this fact is recognised in the Wereham Conservation Area boundary. It is further indicated that Planning Policy Statement 7 *Sustainable Development in Rural Areas* points to the legitimacy of making housing land available adjoining existing villages.

6. The boundary will be determined as part of the site allocations process where all the relevant arguments can be considered. However, on the information before me, I accept that there are factors in favour of extending the village development boundary to include the appeal site. In such circumstances, I have had regard to the Council's settlement hierarchy and other policies concerning housing in rural areas.
7. Under Core Strategy Policy CS02, Wereham is defined as a "rural village" where limited minor development will be permitted in accordance with Policy CS06. This deals with development in rural area. Modest levels of development, as detailed in Policy CS09, will be permitted to meet local needs and maintain the vitality of rural communities where this can be achieved in a sustainable manner, particularly with regard to accessibility to housing, employment, services and markets, and without detriment to the character of the surrounding area or landscape.
8. In turn, Policy CS09 makes provision for at least 1,280 new dwellings in the rural villages. However, the policy states that new housing allocations will be restricted solely to the provision of small scale infilling or affordable housing allocations or potential exceptions housing to meet the identified needs of the local community, and will be identified through the Site Allocations DPD. To achieve consistency in the policy approach, I would expect the same restrictions to apply to housing on "windfall" sites.
9. I would not regard the appeal site as an infill site. It is on the very edge of the village with no development beyond. Nor would the development represent "affordable housing" or rural exceptions housing. I appreciate that the proposal would meet the needs of local people / local people in housing need. However, the category of need falls outside the provisions that have been made in a very recently adopted development plan.
10. I acknowledge that the development would be acceptable in physical terms. It would be a "visual stop" at the bend on Ben's Lane; and it would form an attractive replacement to the existing Dutch barn. The character or appearance of the Conservation Area would be preserved or enhanced. However, notwithstanding local support, I do not see the replacement of the barn as being of overriding importance. Barns such as this are typical and familiar features of the rural scene.
11. I conclude that the proposal would not accord with Core Strategy Policy CS09. Development of the nature proposed would not be appropriately located on the appeal site. The appeal should be dismissed.

*Andrew S Freeman*

INSPECTOR