



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Planning Committee

30 September 2020



S19/1483 - Addendum

Proposal:	Outline Planning Permission for the erection of a one and half storey dwelling with approval being sought for access only.
Location:	Vine House, 19 High Street Carlby PE9 4LX
Applicant:	Mr & Mrs Griffin, Vine House, 19 High Street Carlby PE9 4LX
Agent:	Mr William McCormack, Harris McCormack Architects, Archaus, Peterborough Road, WANSFORD, PE8 6JN
Application Type:	Outline Application
Reason for Referral to Committee:	Request by Cllr Benn on the grounds of overdevelopment and loss of residential amenity.
Key Issues:	Principle of development, Impact on character of the area Residential Amenity Highways/traffic
Technical Documents:	Pre-application Statement Further Supporting Statement

Report Author

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Corporate Priority:

Decision type:

Wards:

Growth

Regulatory

Glen

Reviewed by:

Will Richards, Head of Development Management

15 September 2020

Recommendation (s) to the decision maker (s)

That the application is approved conditionally

Addendum to Committee Report S19/1483

1 Introduction

1.1 Members will recall that this application was previously discussed at the Planning Committee meeting on 19 August 2020 (report and additional items paper at Appendices 1 and 2). At the meeting, the Committee resolved it was minded to refuse the application contrary to officer recommendation. Those Members who voted for the proposition were required to submit their reasons for refusal for consideration at a future Planning Committee meeting which are considered further below.

1.2 *The relevant minutes of that meeting were as follows:*

- *In considering the application, Members raised concerns about the height of the proposed dwelling and the potential for it to negatively affect the amenity of the neighbouring properties as a one and a half storey building.*
- *13:07 – Councillor Kaberry-Brown stated that she had not heard the preceding part of the debate due to technical issues. Officers confirmed that she would not be able to participate in the vote on this application*
- *The Committee also queried the definition of the application site as a brownfield site and the policies within the South Kesteven Local Plan that had therefore been considered applicable.*
- *13:17 - As the meeting had been in progress for 3 hours, the Chairman asked for Members' consent to continue. Members agreed*
- *It was proposed and seconded that the application be approved conditionally, as recommended by the Planning Officer, but on being put to the vote the proposition was not carried.*
- *A proposition was put forward that the Committee was minded to refuse the application. As the proposition to refuse the application was contrary to officer recommendations, the cooling off period set out in Article 9.1.9 (c) of the Council's Constitution was invoked, in line with the meeting procedure for virtual Planning Committee meetings. In accordance with the Constitution, a recorded vote was taken:*
 - *For: Councillors Bellamy, Bisnauthsing, Dilks, Milnes, Reid, Judy Smith and Adams (7)*
 - *Against: Councillors Exton, Selby and Jacky Smith (3)*
 - *Abstain: Councillor Cottier (1)*
- *As Councillor Kaberry-Brown had not been present for the full discussion of this item, she did not participate in the vote.*
- *The vote was carried and those Committee Members who voted in favour of the proposition had five working days to provide the Interim Head of Development Management with the planning reasons for their view, together with supporting evidence. The application would be placed on the agenda for consideration at a future meeting of the Planning Committee when the Interim Head of Development Management would provide his opinion on whether the reasons advanced were substantial enough for the authority to defend the decision at an inquiry. In light of any additional information, the Committee would then be empowered to determine the application without being fettered by their vote at the previous meeting.*

2 Reasons for Refusal Assessment

2.1 Following the resolution to refuse the application at the 19 August 2020 meeting of the Planning Committee, Cllr Milnes and Cllr Bisnauthsing submitted reasons for refusal. Cllr Adams also confirmed that he agreed with Cllr Milnes' reasons.

2.2 In line with paragraph 9.1.9 (c)(v) of Article 9 of the Council's Constitution, this report sets out the reasons for refusal together with the Head of Development Management's opinion on whether the reasons advanced are substantial enough for the authority to defend the decision at an Inquiry.

2.3 Cllr Milnes - Proposed Reasons:

1) *The site is within the built-up area of the small village of Carlby. It is part of a traditional linear arrangement of Vine House which is set at right angles to High Street. It cannot be defined as either infill or previously developed land and has always formed part of the historic dwelling, garden area and associated buildings ancillary to the use of Vine House. There is no evidence of, or permissions for, any commercial engineering operations on the site. In 2011 (S11/0195) the applicant submitted a householder application, related to Vine House, approved for the rebuild, in a similar manner and proportions, of the open barn/garages for residential purposes. This proposal to separate the site from the use of Vine House and build a new dwelling would affect the nature and character of the village in this sensitive location in the historic core.*

2) *The proposal would constitute overdevelopment of this area within an historic agricultural core of the village and would result in an overbearing building in relation to the size of the plot, the amenity impacts on 2 Church Street and the nature and character of the settlement. Furthermore, the amenity space available to Vine House would be adversely affected as the proposal would result in the loss of garaging and parking area. The access to this site was not intended to serve this back land, it has a traditional access from Vine House, but was to facilitate the conversion of Little Barn within the grounds. (S06/0915; S09/1880).*

2.4 *The proposal is therefore contrary to: SKDC Local Plan: SP1; SP2; SP3; EN1; EN6; DE1, Carlby Neighbourhood Plan: V.0; D.0; D.1; D.2; P.0 NPPF: Glossary; Sections 3; 12*

2.5 Cllr Milnes – Additional Proposed Reasons:

2.6 *I have just received and read the Inspectors reports on 2 appeals which have been dismissed. Whilst I accept that they do not exactly relate to this case there are some interesting factors which I think could be added into the reasons for refusal. S19/1126 Thurlby. Gives emphasis to the NP having been only recently adopted and also relates to the Councils 5year HLS and housing delivery test. S19/1474 Bridge End Colsterworth. The Inspector has written paragraphs relating to 'infill'*

2.7 Cllr Bisnauthsing - Proposed Reasons

2.8 *This site is bounded on all sides by Residential Properties in this Village. This proposal is considered to be an overdevelopment of the site by putting a large dwelling in a*

garden/farmyard, that already has too many buildings affecting the Spatial policy SP3 of infill and backland development. Also SP1 the Spatial Strategy – that is why the SCALE has been omitted at this stage, or else it would appear as overcrowding of buildings in a small place.

- 2.9 *Therefore, it goes against Carlby Neighbourhood Plan, as Carlby Parish Council have raised concerns that the proposal is (backland) development and therefore conflicts with Carlby Neighbourhood Plan Policy – D.1.*
- 2.10 *Policy D.1 of the Carlby Neighbourhood Plan states that Policy D.1.1 – new developments within the old farmyard/garden and backland areas will not be supported. This development, if allowed, falls within it. Secondly, as far as I can see this has never been a “Brownfield Site”, it has been part of a farmyard or garden of Vine House. We cannot annotate it as a “Brownfield Site” for convenience as per SKLP Policy SP3.*
- 2.11 *Also SKLP SP4 Section (G): This does not justify “Needs” for housing or provide for Affordable Housing.*
- 2.12 *Policy SP3 (C) “that it does not cause harm or unacceptable impact upon the occupier’s amenity of adjacent properties”: This development will cause harm and will impact on adjacent properties. There is no clear demonstrable local community support for this scheme.*
- 2.13 *Policy DE1 (b): To ensure that there is no adverse impact on the amenity of neighbouring users in terms of loss of privacy, noise and loss of light. In the absence of ‘Scaled’ Design, this cannot be assessed properly.*
- 2.14 *Also Policy DE1 (a): To ensure high quality design to make a positive contribution to the local distinctiveness and character of the area etc, again this cannot be assessed due to lack of scale or full design and layout of the proposed development.*
- 2.15 *The seeking of Planning Permission for “Access” without “Scale” is unnecessary as Planning Permission for “Access” is already granted under S06/0195. Therefore, it is existing and established. I feel this Application is just a ruse.*

2.16 **Comments of Head of Development Management:**

2.16.1 The proposed reasons for refusal essentially boil down to the following issues:

2.16.2 Not infill or previously developed land

2.16.3 Whether the land is brownfield or greenfield is a matter of fact and degree based on evidence. In this case officers advise that the evidence points strongly in favour of it being brownfield. Whilst the site is part of the land associated with Vine House (in terms of ownership and historic use), there is no substantive evidence it is or has ever been “garden” or open “green” land. There is clear evidence to the contrary of commercial and domestic use over a period of greater than 10 years. Whether domestic or commercial it is brownfield under the NPPF definition i.e. it is not a garden or farmyard. As discussed in the main report,

the site fits the definition of infill in SKLP policy SP3 i.e. a redevelopment site within the built up part of the village.

2.17 **Adverse impact on character and appearance of the area**

2.17.1 The site is not in a conservation area or near listed buildings although it is within the village's historic core which contains a number of non-designated heritage assets. However the historic plot boundaries of Vine House and its yard enclosed by stone walls would remain intact, and the separation between Vine House and its domestic garden and the proposed dwelling and its curtilage would largely correspond to the historic distinction between Vine House and its yard/outbuildings. Furthermore, a sensitively designed dwelling of appropriately modest scale, footprint and local materials would help to maintain local distinctiveness and the character of this part of the village. It would not appear as cramped, overbearing or overdeveloped as it would effectively be replacement of one building with another on a reasonable sized plot which is similar in size to numerous other plots within the village. An outline permission with all matters except access reserved, would give sufficient flexibility so that for example, the final design could take the form/appearance of a traditional outbuilding, wholly in keeping with the context. Officers do not consider this to be a finely balanced issue – the proposal is well within the limits of acceptability.

2.18 **Adverse impact on Residential Amenity**

2.18.1 As discussed in the main report, the plot size and separation distances to neighbouring dwellings as well as their orientation would ensure that a sensitively designed dwelling of appropriately modest scale and footprint, with windows appropriately positioned would not result in unacceptable overlooking, loss of light, dominance of outlook, noise and disturbance etc. Furthermore, Vine House would retain sufficient area for parking and turning. Officers do not consider this to be a finely balanced issue – the proposal is well within the limits of acceptability.

2.18.2 No need for the development – contrary to SP4

2.18.3 The proposal is not affordable housing or on the edge of the village. Therefore, policy SP4 is not engaged and there is no policy requirement to demonstrate need.

2.18.4 That the impact cannot be assessed under an outline application

2.18.5 Applying for outline permission is a long-established principle of the planning system and a perfectly legitimate way to secure the principle of development when the detailed design is not yet known. It is only necessary in exceptional circumstances to require additional details such as scale, layout, appearance etc where it is not possible to assess the impact of an outline application without them. In this case it is very clear what impact a suitably designed single dwelling would have on the character of the area and residential amenity. Officers do not consider this to be a finely balanced issue – the proposal is capable of assessment under an outline application.

2.18.6 The access was intended to serve the conversion of the little barn

2.18.7 The original intended purpose of the access to the site is not a material to the determination of this application, neither is the motivation of the applicant – it is a lawful access which now serves the yard to the rear of Vine House as well as Vine House itself. The fact that the barn conversion has an extant permission is not a reason for refusal. If the current application were approved and built out, the barn conversion planning permission would fall away. A new permission would be necessary to proceed with the barn conversion which would have to be assessed on its own merits. It is a long-established principle of planning law that it is not legitimate grounds to refuse a scheme (that is acceptable in planning term) on the grounds that there may be preferable alternative schemes – each proposal must be judged purely on its own merits.

2.19 **Similarities to recent appeal decisions elsewhere**

2.19.1 There are significant differences from the current proposal. Unlike Carlby NP, both Colsterworth and Thurlby's NP spatial/locational policies relating to infill do not conflict with the new SKLP despite predating it – Neither Colsterworth or Thurlby's status as "larger villages" (formerly known as local service centres) have changed. Neither the Thurlby or Colsterworth sites are infill or brownfield redevelopment sites and are therefore not directly comparable. Carlby's status as a village where almost no development was allowed (when the NP was adopted 2019) changed radically under the new LP 2020 to a "smaller village" where infill is allowed so the NP's spatial/locational policies are now superseded. The fact that SKDC has a 5-year land supply is only relevant in this case in the sense that relevant development plan policies apply – the NPPF presumption in favour of sustainable development only applies when there is not a 5-year land supply so is not engaged. Neither has a lack of a 5-year land supply been used as an argument by the applicant to justify development.

2.20 **Backland development - contrary to the Carlby Neighbourhood Plan**

2.20.1 In respect of the spatial/locational policies in the local plan and neighbourhood plans which make up the development plan, the most recently adopted take precedence, in accordance with paras 28 - 30 of the NPPF. Neighbourhood plans cannot promote less development than the LP allows. In this case those in the SKLP apply as they are the most recent and there is no presumption against backland for redevelopment sites in the SKLP.

3 Conclusion

3.1 In reaching a decision, Members must determine the application in accordance with relevant policies of the development plan unless material considerations indicate otherwise. Members are advised to consider the precedence of the more up to date spatial policies in the SKLP.

3.2 The reasons relating to access, 5-year land supply and conflict with policy SP4 are not defensible for the reasons set out above.

3.3 Whether the land is brownfield or greenfield is a matter of fact and degree based on evidence. In this case officers advise that the evidence points strongly in favour of it being brownfield.

- 3.4 Issues such as impact on character of the area and residential amenity are matters of planning judgement. However, officers consider the proposal is not finely balanced in this respect and that the impacts would be well within the limits of acceptability when assessed against the relevant policies. The final detailed design and scale is capable of being dealt with at reserved matters stage.
- 3.5 The Head of Development Management's opinion is therefore that reasons advanced would not be substantial enough and are not supported by robust evidence for the authority to easily defend a decision to refuse planning permission through an appeal. The advice to Members remains that the application is approved as per the case officer's recommendation and suggested conditions as set out below.

1 Description of Site

- 1.1 The site is land to the rear of Vine House, 19 High Street, Carlby which covers an area of 435 sqm. The site can be accessed from both Church Street and High Street and currently comprises an open yard area with a small stone outbuilding and a larger timber modern agricultural style structure to the north west boundary with 21 and 23 High Street, which is used in conjunction with the applicant's business - E & R Griffin Agriculture, Arable Farm and Agricultural Engineering.
- 1.2 The surfacing of the site is predominantly gravel with some concrete and a narrow strip of grass alongside the access drive. There are existing trees within the neighbouring properties of 6 Church Street and 23 High Street.
- 1.3 The site is bounded on all sides by residential dwellings and their curtilages. Vine House is set perpendicular to High Street like its neighbour at no. 21. Both of these properties have a blank gable end adjoining the footpath to High Street. The former barn at 21 High Street, which sits back within the site and at right angles to the main property, was granted approval for conversion under S09/2932 and S12/0647 and now forms 23 High Street. This property and its separate access have been completed and maintain the rural feel of the village with the courtyard layout.
- 1.4 Numerous planning permissions have been granted for developments within the site, including S06/0915 for the conversion of the building known as 'Little Barn' immediately in front of the main Vine House. This planning permission has been implemented by virtue of the installation of the access from Church Street and the discharge of the relevant pre-commencement conditions under S09/1880. To date this barn has not been converted.

2 Description of proposal

- 2.1 This application is seeking outline planning consent for the erection of a dwelling (1.5 storey) with means of access being the only matter for consideration at this stage. The matter of scale was originally included for consideration. However, the proposal has now been amended to omit scale as a matter for consideration.
- 2.2 The access is existing and established having been approved under S06/0915 (conversion of barn to dwelling) and installed within the appropriate timescale to make it valid.
- 2.3 The proposal would see the removal of the existing large modern outbuilding to the north west of the site, which was approved under S11/0195. The existing small stone outbuilding would remain with the indication being that this could link to the proposed dwelling.

3 Relevant History

S11/0195	Replacement outbuilding	Approved Conditionally	29/03/2011
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4 Policy Considerations

4.1 SKDC Local Plan 2011 – 2036

Policy SP1 - Spatial Strategy
Policy SP3 - Infill Development
Policy DE1 - Promoting Good Quality Design

4.2 Neighbourhood Plan

P.0 – Pollution Control
V.0 – Rural Character and Appearance
D.0 – Generic Development (Where suitable and acceptable)
D.1 - Development: - Garden/green space size retention
D.2. - Development: - Infill

4.3 National Planning Policy Framework (NPPF)

Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 16 – Conserving and Enhancing the Historic Environment

5 Representations Received

5.1 Environmental Protection Services (SKDC)

5.1.1 No comments to make.

5.2 Parish Council

5.2.1 Sept. 2019 - Contrary to Local and Neighbourhood Plan Policies. Proposal is considered to be unneighbourly, overcramming development that is materially larger and higher than the barn/workshop it is proposed to replace. The access from Church Street should not be considered as access to back land development. It will cause noise and disturbance to the dwelling at 2 Church Street. Should be retained as a farmyard.

Nov. 2019 - Backland Development. Not compliant with policies of CNP.

5.3 LCC Highways & SuDS Support

5.3.1 Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

6 Representations as a Result of Publicity

6.1 This application has been advertised in accordance with the Council's Statement of Community Involvement. Letters of representation have been received from 4 households in the village. The points raised can be summarised as follows:

1. Contrary to Carlby Neighbourhood Plan - too large, backland
2. Contrary to Policy SP3 of the emerging Local Plan
3. Loss of privacy
4. Contrary to Policy EN1 of the SKCS
5. Pre-application enquiry response not available to view
6. Loss of an agricultural village farmyard.
7. Removing scale from the application is just disrupting residents' lifestyle for longer.

7 Evaluation

7.1 Principle of Development

7.1.1 The South Kesteven Local Plan (SKLP) adopted Jan 2020, sets out the principles of the location of development within Policies SP1: Spatial Strategy and SP2: Settlement Hierarchy with Carlby being designated as a Smaller Village within Policy SP2, where development in accordance with Policy SP3 and other relevant policies will be supported subject to it not compromising the settlement's nature and character . Policy SP3 of the SKLP refers specifically to infill development and that it will be supported in Smaller Villages subject to it being either within a substantially built-up frontage, or re-development opportunity (previously developed land); within the main built up part of the settlement; not detrimental to the amenity of occupiers of adjacent properties and in keeping with the character of the area and sensitive to the setting of adjacent properties, along with compliance with other policies of the SKLP.

7.1.2 SKLP Policy E6 allows loss of employment land to non-employment use subject to a number of criteria

7.1.3 The Carlby Neighbourhood Plan (CNP) (March 2019) sets out a number of specific policies to guide development within the village.

7.1.4 Policy D.0 of the CNP - Generic Development (Where suitable and acceptable) - supports development "where suitable and acceptable" subject to proposals meeting all the relevant requirements set out in other policies in the plan, with D.0.2 referring to infill. This is defined in the CNP as being:

“Infill is a small, restricted gap in the continuity of existing frontage buildings or on other sites within the built-up area of the village where the site is closely surrounded by buildings. Development will not involve the outward extension of the envelope of the village. Development is not considered to be back land or unneighbourly development, that requires unsuitable access, reduces the privacy of adjoining properties or is inconsistent with the character of the locality.”

7.1.5 Policy D.1 of the CNP Development - Garden/green space size retention - states at D.1.0 that proposals for new residential development will be supported where the relationship between the built development and the plot size respects the open and spacious character of properties within the village envelope. With D.1.1 stating that new developments within garden and back land areas will not be supported.

7.1.6 Policy D.2 of the CNP - Development: - Infill - stating at D.2.2 that:

"Proposals for infill residential development will be supported where they provide access and servicing from the existing access into the proposed site concerned."

- 7.1.7 Section 5 of the NPPF seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area. Para. 70 resists the inappropriate development of residential gardens.
- 7.1.8 Section 3 of the NPPF makes clear that Neighbourhood Plan policies should not promote less development than that allowed by the strategic policies in the Local Plan. Furthermore, when a new Local Plan is adopted, any existing neighbourhood plan policies which conflict with the new Local Plan are superseded by those in new Local Plan. In other words, where policies conflict, whichever is the most recently adopted takes precedence.
- 7.1.9 The site was historically a farmyard associated with Vine House and has never been a garden or part of the residential curtilage of Vine House. The area is fenced off and separate from the dwelling and now benefits from a separate access from Church Street. The site is surfaced with gravel and has been observed to be in use for the parking of vehicles. The site as a whole is currently and has been for a number of years in commercial use in connection with the applicant's agricultural engineering business.
- 7.1.10 The proposal would see redevelopment of a brownfield site within the main built up part of Carlby, which is designated as a Smaller Village, surrounded by residential development, with the existing approved and established access making up part of the built-up frontage. The resulting plot size for the proposed dwelling would be comparable to other properties in the immediate context.
- 7.1.11 Whilst the proposal would result in the loss of a small commercial site, it is considered that residential use is more appropriate in a wholly residential area than an unrestricted industrial use, with resulting potential for noise and disturbance. The proposal is therefore in accordance with SKLP policy E6.
- 7.1.12 The Parish Council have raised concerns that the proposal is back land development and therefore conflicts with CNP policy D.1. These concerns are noted. However, since the application was originally submitted, the District Council has adopted the new South Kesteven Local Plan (Jan 2020) which is more permissive of development in smaller villages than the previous local plan. SKLP policy SP3 specifically allows infill or redevelopment sites in smaller villages. Whilst the definition of infill refers to development within a substantially built up frontage which in most cases would preclude "backland" development, there is no such restriction on redevelopment of brownfield sites, which by their nature may not always be part of a "frontage".
- 7.1.13 Taking the above into account, the principle of development of this site for a residential dwelling is acceptable and in accordance with Policies SP1; SP2, SP3 and E6 of the SKLP, Policies D.0; D.1 and D.2 of the CNP and Sections 3 and 5 of the NPPF.

7.2 **Impact on the character and appearance of the area**

- 7.2.1 Policies DE1 and EN1 of the SKLP requires that development must be of appropriate design and appropriate to the character and significant natural, historic and cultural attributes and

features of the landscape within which it is situated, and make a positive contribution to the local distinctiveness, vernacular and character of the area.

- 7.2.2 Policy EN6 of the SKLP requires the impact on heritage assets to be taken into account and for harm to be avoided unless it is outweighed by the public benefits.
- 7.2.3 Policy V.0. of the CNP relates to the rural character and appearance of Carlby seeking at V.1 for all development to ensure the scale of buildings does not unacceptably impact on the character or appearance of the village. Policy D.0 of the CNP at D.0.1 states that: "All new development should demonstrate good quality design that respects the scale and character of existing and surrounding buildings".
- 7.2.4 Further, Section 12 of the NPPF provides that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Section 16 requires the impact on non-designated heritage assets to be considered.
- 7.2.5 The only matter to be considered for approval at this stage is access to the proposed dwelling. Matters of layout, scale, appearance and landscaping would be considered under a future reserved matters application.
- 7.2.6 Access will be via the existing access from Church Street which was formed following the grant of planning permission S06/0915 for the conversion of an existing barn to a separate dwelling and is established within the built frontage of Church Street. The use of this access to serve an additional residential dwelling on the site would not result in any significant adverse impact upon the character and appearance of the area.
- 7.2.7 The conversion of the barn, which is positioned to the south west of Vine House on the other side of the driveway/parking area and also follows a north/south orientation has not been carried out, and whilst the permission has been implemented by virtue of the access being installed and other pre-commencement conditions discharged under S09/1880 it would not be possible for both this current proposal and the previously approved barn conversion to both be developed in accordance with submitted plans and therefore further planning permission would be required if the applicant wished to pursue both developments. In addition to this the applicant has indicated that at present they intend to continue to use it for the purpose of winter storage and summer entertaining, renovating it in stages.
- 7.2.8 The proposal would include the removal of a modern agricultural style building approved under S11/0195 and currently used as a workshop/outbuilding. The existing single storey stone outbuilding adjacent to this would be retained for use by the new dwelling thereby tying it in to the original character of the village.
- 7.2.9 Whilst there are no listed buildings in the vicinity and the area is not a conservation area, there are a number of historic buildings nearby, including Vine House itself that can reasonably be regarded as non-designated heritage assets. A new dwelling of appropriate, design scale and materials would preserve the settings of these assets.

7.2.10 Whilst the exact position, design and scale of the proposed dwelling would be considered at reserved matters stage, the site is sufficiently large to accommodate an appropriately designed (and using locally distinctive materials) one and a half storey dwelling without adversely impacting upon the character and appearance of the village in accordance with Policy DE1 and EN6 of the SKLP, Policies V0 and D0 of the CNP and Section 12 of the NPPF.

7.3 **Impact on the neighbouring properties**

7.3.1 Policy DE1 of the SKLP requires 'no adverse impact upon the amenity of neighbouring users in terms of noise, light pollution, loss of privacy and loss of light'

7.3.2 Policy P.O. of the CNP seeks to maintain the village character and atmosphere with development that conserves the rural character and tranquillity being supported.

7.3.3 Para 127 of the NPPF states planning decisions should create places with a high standard of amenity for existing and future users.

7.3.4 The northern elevations of 2 Church Street and eastern elevation of the outbuildings at 6 Church Street do not contain any principal openings and therefore a modest sized dwelling with appropriately located openings should ensure that direct overlooking or significant loss of natural light would not result. In addition to this there would be a distance of over 30 metres from the site to the eastern elevation of 6 Church Street and the existing trees to the shared boundary are shown to be retained. The majority of the private garden area to 2 Church Street is located to the west of the dwelling adjacent to the highway and bounded to the north by the outbuilding within the grounds of 6 Church Street further screening this amenity space. The existing yard area is used in conjunction with the applicant's business with the doors of the outbuilding facing onto the courtyard where the parking of vehicles is undertaken. The development of an appropriately designed and scaled dwelling with residential amenity space would not be significantly detrimental to the amenity of occupants of 2 and 6 Church Street above and beyond the current established use.

7.3.5 There would be a distance of approximately 16 metres between the south east elevation of 23 High Street and the site. Subject to any elevation facing this property being blank or secondary, which is considered to be achievable, neither direct overlooking nor significant overbearing impact would result.

7.3.6 The main elevation of Vine House faces south east with only ground floor and rooflights within the south west elevation facing the site. It is not therefore considered that direct overlooking between the 2 dwellings would result. The existing 'little barn' on the site would act as screening to prevent loss of privacy within the private garden area.

7.3.7 The application site as shown would provide sufficient space for adequate private amenity area for a modest sized dwelling. The amenity space available to Vine House would not be adversely affected as the area upon which the proposed dwelling is to be developed is not part of the domestic garden

7.3.8 Furthermore, the removal of an unrestricted commercial use would be a betterment in terms of noise and disturbance.

7.3.9 The proposal, subject to the submission of appropriate scaling and design under reserved matters, would not adversely impact upon the amenity of neighbouring occupants in accordance with Policy DE1 of the SKLP, Policy P.O. of the CNP and Section 12 of the NPPF.

7.4 Highway issues

7.4.1 Section 9 of the NPPF (Promoting sustainable transport) states at para. 109 that "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

7.4.2 Access to the proposal would be via the existing vehicular access from Church Street which was approved under S06/0915 to serve the then proposed barn conversion. The access serving an additional residential dwelling has therefore been established.

7.4.3 The submitted plans show sufficient space for the provision of off-street parking and manoeuvring space for 4 vehicles which is considered to be sufficient.

7.4.4 Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

7.4.5 On the basis of the above it is considered that the proposal for a single dwelling in this location would result in adequate access, parking and turning facilities and would not have an unacceptable adverse impact on highway safety in accordance with Section 9 of the NPPF.

8 Crime and Disorder

8.1 It is considered that the proposal would not result in any significant crime and disorder implications.

9 Human Rights Implications

9.1 Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

10 Conclusion and Planning Balance

- 10.1 The proposal would see redevelopment of a brownfield site within the main built up part of Carlby, utilising an existing established access. The resulting plot size for the proposed dwelling would be comparable to other properties in the immediate context and is sufficiently large to accommodate an appropriately designed dwelling without adversely impacting upon the character and appearance of the village or neighbours' residential amenities. The proposal would be in accordance with Policies SP1, SP2, SP3, EN1, EN6, E6 and DE1 of the SKLP, Policies V.0, D.0, D.1, D.2 and P.O of the CNP and Sections 3, 5, 9 and 12 of the NPPF.

RECOMMENDATION: that the development is Approved subject to the following conditions

Time Limit for Commencement

- 1 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters, whichever is the latter.

Reason: In order that the development is commenced in a timely manner, as set out in Section 92 of the Town and Country Planning Act 1990 (as amended).

- 2 Details of the reserved matters set out below shall have been submitted to the Local Planning Authority for approval within three years from the date of this permission:
- i. layout;
 - ii. scale;
 - iii. appearance; and
 - iv. landscaping (including details of trees outside the site to be retained and their RPA).

Approval of all reserved matters shall have been obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and in order that the development is commenced in a timely manner, as set out in Section 92 of the Town and Country Planning Act 1990 (as amended).

- 3 When the reserved matters application is made plans showing the existing and proposed land levels of the site including site sections, spot heights, contours and the finished floor level of all proposed buildings with reference to neighbouring properties or an off-site datum point shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and in accordance with Policy DE1 of the adopted South Kesteven Local Plan (2020).

Approved Plans

- 4 The development hereby permitted shall be carried out in accordance with the following list of approved plans:
- i. Site Location Plan - dwg no. 19-731 (00) 001 rev B - received 21 November 2019

- ii. Site Plan Proposed - dwg no. 19-731 (08) 002 rev A - received 21 November 2019

Unless otherwise required by another condition of this permission.

Reason: To define the permission and for the avoidance of doubt.

During Building Works

- 5 Before construction of any building hereby permitted is commenced, the land on which that building is situated shall have been graded in accordance with the approved land levels details.

Reason: In the interests of the visual amenities of the area and in accordance with Policy DE1 of the adopted South Kesteven Local Plan (2020).

Before the Development is Occupied

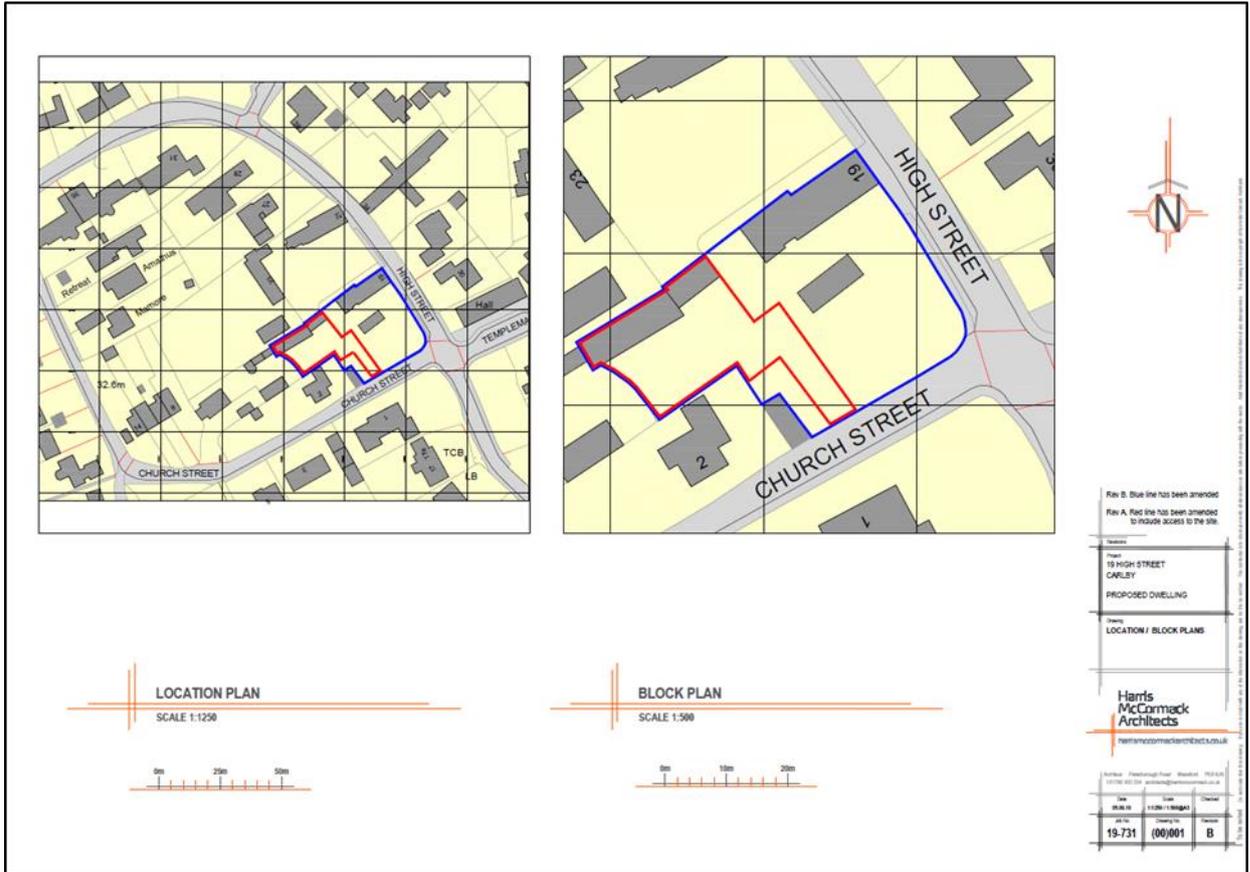
- 6 Before any dwelling hereby permitted is occupied, the finished floor levels for that building shall have been constructed in accordance with the approved land levels details.

Reason: In the interests of the visual amenities of the area and in accordance with Policy DE1 of the adopted South Kesteven Local Plan (2020).

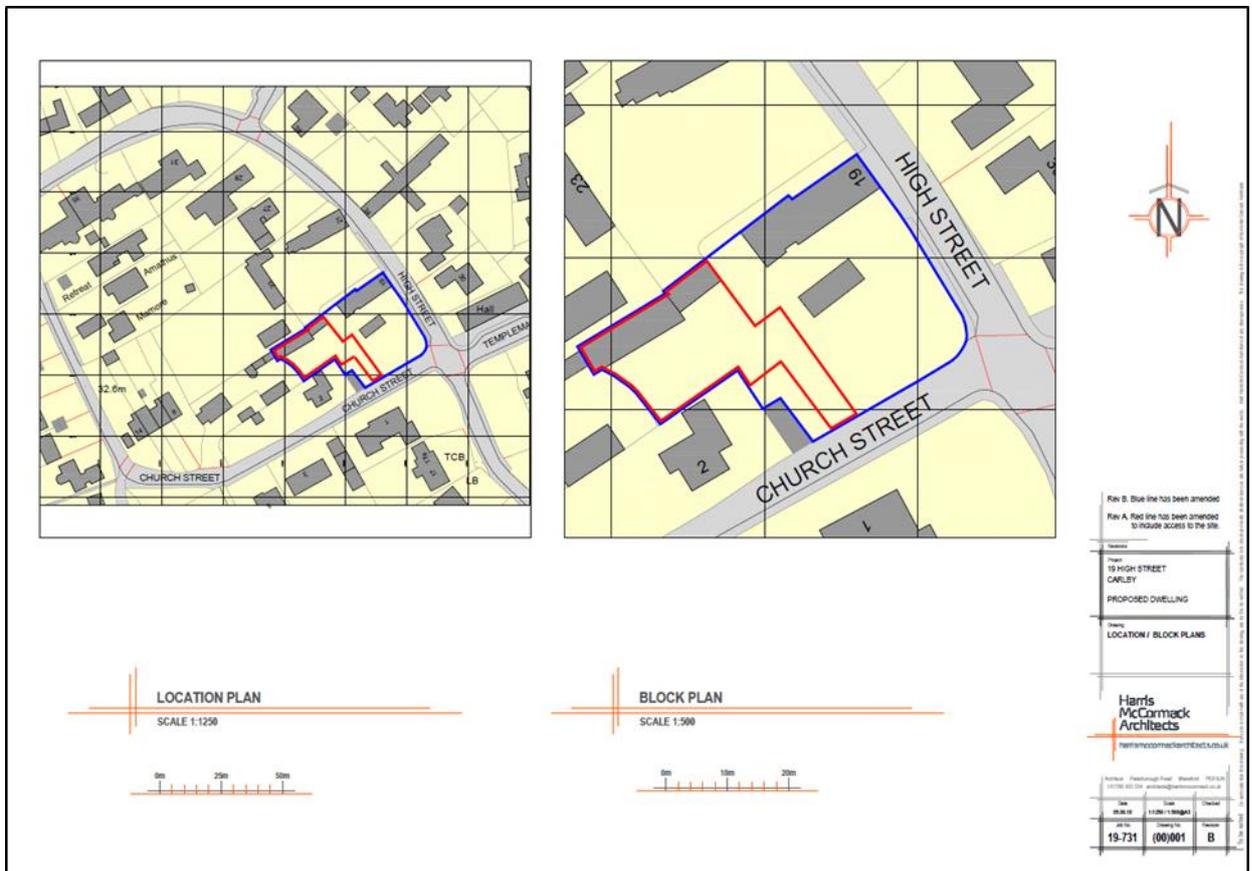
Standard Note(s) to Applicant:

- 1 Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.
- 2 The applicant is advised that a single axis building with a comparable footprint to the existing larger outbuilding on the site, a height not exceeding immediate surrounding properties and of a design in keeping with the character and appearance of Carlby village should be considered for submission under reserved matters.
- 3 You are advised that the application site falls within an area affected by Radon. You are asked to contact the Council's Building Control section (telephone number 03330 038132) to ascertain the level of protection required and whether a geological assessment is necessary.
- 4 In reaching the decision the Council has worked with the applicant in a positive and proactive manner by determining the application without undue delay. As such it is considered that the decision is in accordance with paras 38 of the National Planning Policy Framework.

Site Location Plan



Block Plan



Appendix 2 – Additional Items Report to Committee 19 August 2020

Summary of Information Received: A number of questions and requests for clarification have been put forward by Members following publication of the original Committee report and the Committee site visit

Officer comment: The questions raised and officer comments thereon are set out below:

Q1: Is this application for access only or does it include permission in principle for specifically a one and half storey dwelling?

A: the application is specifically for a one and a half storey dwelling. It is an outline application with all matters reserved except for access. Therefore, if it were to be approved, the only details being set by the permission would be the principle of a one and a half storey dwelling on this site and the position/nature of the access. The exact details of scale, layout, appearance and landscaping would be the subject of a future reserved matters application.

Q2: What is the order of adoption/publication and status of the National Planning Policy Framework (NPPF), South Kesteven Local Plan (SKLP) and Carlby Neighbourhood Plan (CNP)

A: The plans/documents listed above were adopted/published in the following order:

- Latest version of NPPF – Feb 2019
- CNP – March 2019
- SKLP – Jan 2020

The CNP and SKLP both form part of the statutory development plan. In cases where there are conflicting policies between local and neighbourhood plans, the most recently adopted policies take precedence. Planning law states that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The NPPF does not have statutory status but is current government planning policy and therefore carries great weight as a material planning consideration in decision making.

Q3: What consideration has been given to the Carlby Village Design Statement as regards this old part of the village and the character and use of the plots?

A: The Carlby Village Design Statement (CVDS) dates from 2010 and does not form part of the statutory development plan although it is a material planning consideration. To a significant extent it has been superseded by the CNP, as well as relevant policies in the SKLP, so many sections of it carry very little if any weight. However, Policy D.0.3. of the CNP states “Development proposals will be supported where they conform to the design principle in the Carlby Village Design Statement.”. Therefore, the design guidance on pages 14-16 of the CVDS do still carry due weight as a material consideration. The key aims of the design guidance of the CVDS is to ensure that new development, including infill are “compatible with existing scale, vistas and detailing so the village retains its feel and look as a place with character and coherence”. Detailed matters of appearance, scale, layout and landscaping would be the subject of a future reserved matters application so the detailed application of the design guidance in matters such as appropriate scale, position and

materials would be carried out at that stage. However, the current application, accords with the CVDS which advises that new houses should be no more than 2 storeys with dormer style housing limited to one and a half storeys. As discussed in the main report, a suitably designed one and a half storey dwelling would be well integrated with the village and would not harm the form and character of its surroundings or result in adverse amenity impact. Furthermore, there would be no harm to the integrity of the village's characteristic dry stone walls which both the CNP and CVDS seek to protect. Taking the above into account, the proposal accords with CNP Policies V.0. and D.0.3. read together with the design guidance in the CVDS.

Q4: Clarification of previous and current use of the land and whether it is brownfield or greenfield?

A: It is noted that CNP uses an outdated definition of previously developed land. The current NPPF definition of previously developed land is:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

Using the above definition, agricultural land/buildings and residential gardens (although not necessarily all land and buildings associated with dwellings) would be greenfield land. Based on available evidence including, the planning history, historic maps and information/photographs supplied by the applicant and Parish Council, the site does not appear to have ever been a residential garden or open “green” space. It appears to have been a yard associated with Vine House, physically separate and distinct from its domestic garden. Buildings visible on historic photos and maps, some of which still exist, include Vine House itself, two stone built barns, a stable block and open fronted cart sheds. It is likely that the site has been used for a variety of purposes over the years associated with agricultural and other uses, including keeping of animals such as pigs and chickens, storage/maintenance of agricultural equipment, stabling, domestic storage, workshop, farm offices, parking etc so may have been historically greenfield or brownfield or more likely a combination of both. The current owner has been using it for various purposes including a combination of domestic storage, workshop, parking and commercial purposes for what appears to be a period of greater than 10 years, in which case it would be brownfield.

Q5: Is this classed as backland development?

A: CNP policy D.1. Development: - Garden/green space size retention, seeks among other things to restrict backland development, with D.1.1. stating “New individual developments within garden and back land areas will not be supported”. The title of the policy specifically refers to “garden/green space”. The supporting text also refers to the purpose of the policy to restrict inappropriate development of residential gardens. Furthermore, a map is provided

on page 10 which highlights green spaces, large gardens and paddocks/pastures which it is considered desirable to protect from development. It is noted that the application site is not included. Policy D.0.2 of the CNP allows infill and redevelopment sites within the built-up part of the village. Infill is defined in the CNP as

“Infill is a small, restricted gap in the continuity of existing frontage buildings or on other sites within the built-up area of the village where the site is closely surrounded by buildings. Development will not involve the outward extension of the envelope of the village. Development is not considered to be back land or unneighbourly development, that requires unsuitable access, reduces the privacy of adjoining properties or is inconsistent with the character of the locality.”

These policies and definitions in the CNP, when read together would appear to restrict backland development relating to new dwellings within residential gardens or green spaces, but are much less clear on backland development of other sites which are not gardens or open green spaces.

As discussed in the original report, the policies in the CNP were based on the more restrictive strategic locational policies of the previous local plan. Some aspects of these policies have now been superseded by the more recently adopted SKLP which is more permissive of development in smaller villages such as Carlby.

SKLP policy SP3 allows infill development in smaller villages including Carlby subject to the following caveats:

- “a. it is within a substantially built up frontage or re-development opportunity (previously development land);
- b. it is within the main built up part of the settlement;
- c. it does not cause harm or unacceptable impact upon the occupiers’ amenity of adjacent properties;
- d. it does not extend the pattern of development beyond the existing built form; and it is in keeping with the character of the area and is sensitive to the setting of adjacent properties.”

This policy does not categorically rule out backland development. Whether the site is within a substantially built up frontage is a matter of planning judgement. In this case, whilst clearly the proposed dwelling would be behind existing development rather than fronting directly onto a road, it would utilise an existing access which is within a substantially built up frontage. It would also consist of redevelopment opportunity of what is land and buildings which are not a residential garden or open green space.

Changes to Recommendation: None