

4.2 21/00081/FUL

Revised expiry date 21 May 2021

Proposal:

Creation of section of track.

Location:

Land West Of Yearling Coppice Farm, Otford Lane,  
Halstead KENT TN14 7EQ

Ward(s):

Halstead, Knockholt & Badgers Mount

#### **Item for decision**

This application has been called to Development Control Committee by Councillor Grint who is of the opinion that the proposal does not conserve or enhance the Area of Outstanding Natural Beauty.

**RECOMMENDATION:** That planning permission be Granted subject to the following conditions:

1) Within three months of the granting of this permission a sample of the proposed track surface will be submitted to and approved in writing by the local planning authority. The permitted materials will be used for the surfacing of the track and shall be retained thereafter.

To ensure that the character of the Area of Outstanding Natural Beauty is conserved and enhanced as supported by the National Planning Policy Framework, policy LO8 of the Sevenoaks Core Strategy and policy EN5 of the Sevenoaks Allocation and Development Management Plan.

2) Notwithstanding the details on the approved plans, within three months of this permission details of replacement indigenous mixed species hedging and details of biodiversity enhancements shall be submitted to and approved in writing by the local planning authority. Those details shall include: -planting plans (identifying existing planting, plants to be retained and new planting); -a schedule of new plants (noting species, size of stock at time of planting and proposed number/densities); -biodiversity enhancements; and -a programme of implementation. The development shall then be carried out in accordance with the approved details. If any of the trees or plants that form part of the landscaping scheme die, are removed or become seriously damaged or diseased within a period of 5 years from the completion of the development then these shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by local planning authority.

To ensure that the character of the Area of Outstanding Natural Beauty is conserved and enhanced, and that biodiversity is enhanced, as supported by the National Planning Policy Framework, policies LO8 and SP11 of the Sevenoaks Core Strategy and policy EN5 of the Sevenoaks Allocations and Development Management Plan.

3) The development hereby permitted shall be carried out in accordance with the following approved plans and details: Site Plan, Block Plan & Landscaping Details and Track Cross Section.

For the avoidance of doubt and in the interests of proper planning.

### **Informatives**

1) The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. This means that the Public Rights of Way must not be stopped up, diverted, obstructed (this includes any building materials, vehicles or waste generated during the works) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

### **National Planning Policy Framework**

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

### **Description of site**

- 1 Yearling Coppice Farm comprises of 3.9 hectares of paddocks and woodland used for the breeding and rearing of horses located within a rural location approximately 1.5 km south of Halstead village.

### **Description of proposal**

- 2 The application seeks permission for the retention of hard standing laid on an established track within the wider site. The hard standing comprises a chalk base on which road planings would continue to be laid.
- 3 This application is a revision of two previously refused applications. The application varies from the previous applications through the large area of hardstanding that lay adjacent to the northern footpath not being included within the current application.

### **Relevant planning history**

- 4 19/03140/FUL - Creation of track and hardstanding - Refused.

## Policies

- 4 National Planning Policy Framework (NPPF)
- 5 Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.
- 6 Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:
  - the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
  - Footnote 6 (see reference above) relates to policies including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.
- 7 Core Strategy (CS)
  - LO1 Distribution of Development
  - LO8 The Countryside and Rural Economy
  - SP1 Design of New Development
  - SP11 Biodiversity
- 8 Allocations and Development Management (ADMP)
  - SC1 Presumption in Favour of Sustainable Development
  - EN1 Design Principles
  - EN2 Amenity Protection
  - EN5 Landscape
- 9 Other:
  - Managing Land for Horses: a guide to good practice in the Kent Downs Area of Outstanding Natural Beauty
  - Kent Downs Landscape Design Handbook
  - Kent Downs Management Plan
  - Development in the Green Belt Supplementary Planning Document (SPD)
  - Countryside Character Assessment Supplementary Planning Document (SPD)

## Constraints

10 The following constraints apply:

- Metropolitan Green Belt
- Kent Downs Area of Outstanding Natural Beauty (AONB)
- Biodiversity Opportunity Area
- Adjacent Public Right of Way
- Adjacent Ancient Woodland

## Consultations

11 Halstead Parish Council

“Objection. This Council is surprised to receive a third retrospective application for this piece of land. This council note that the hardstanding and track, which is still in situ, has been refused twice previously and this council see no reason for a track leading to an illegal area of hard standing.

12 This application does not highlight the purpose of this track. The hardstanding was refused due to being “an incongruous feature clearly visible from the adjacent public right of way which has an adverse impact upon the wider character of the area” This council do not understand the purpose of a track that leads to an area that cannot be used for the purpose of its creation.”

13 KCC Ecology

“No ecological information has been submitted with this application. As previously highlighted in the 2019 application (19/03140/FUL) and in 2020 (SE/20/01343/FUL), submitted photographs show that the hard-standing base has (at least partially) been installed.

14 Ancient Woodland

15 Paragraph 175 of the National Planning Policy Framework 2019 states “*development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists...*”, with Natural England standing advice stating that developments should have at least a 15m buffer between it and the ancient woodland.

16 Whilst it is difficult to assess if the provision of hard-standing and associated activities will lead to a deterioration of the ancient woodland, the installation of the hard-standing (in its current position) contravenes standing advice from Natural England and the Forestry Commission by encroaching within 15m.

17 However, given the current land use/use of the hard-standing track, we take the view that damage to root systems will be minimal. To negate any

adverse effects to the ancient woodland, we advise that compensatory planting is enacted. As mentioned in the section below, this includes replacing the non-native species which are currently planted alongside the track but should seek to go further, e.g. tree planting in area equal to the total area lost to the track. Alternatively, this could be scrub encroachment and/or wildflower meadow creation, ideally within a 'buffer-zone' of the ancient woodland (giving it added protected going forward).

- 18 If planning permission is granted, we advise that within a specified time period, evidence is provided to show that the conifers have been replaced. Enhancements can be included in a landscape plan (discussed in the section below).
- 19 Biodiversity Loss
- 20 Section 40 of the NERC Act 2006 and 175 of the NPPF cites the obligation to maintain and enhance biodiversity. As this development has entailed/will entail the replacement of (mostly) grassland habitat and general greenspace with hard-standing material, it is likely the area's biodiversity value has been lowered as a result. If planning permission is granted, we advise that compensation for the loss of greenspace should be implemented.
- 21 Although a new hedgerow has been proposed, no details (i.e. the species) have been provided. Moreover, the planning statement shows the planted hedge as a non-native coniferous hedgerow - this will not provide biodiversity value and seemingly disregards our previous advice regarding this site/development.
- 22 We highlight that any landscaping associated with this development must include *native* species only (and ideally be of local provenance and in keeping with the area's ecological composition) to provide biodiversity value and maintain the ecological integrity of the nearby ancient woodland.
- 23 We advise that a landscape plan is provided which includes a planting schedule, showing that only *native* tree/hedging species will be provisioned to offset the loss of biodiversity. This should feature habitat creation/enhancement at least equal in size to that of the area lost to the access track.
- 24 This information should be provided prior to determination of the application or secured with a condition if planning permission is granted. Photographic evidence should be included to show that the conifer planting has been replaced.”
- 25 KCC Public Rights of Way Officer
- 26 “Public Right of Way Footpath SR11 runs along the northern edge of the site and Public Right of Way Footpath SR172 runs along the southern side of the site. I enclose a copy of the Public Rights of Way network map showing the lines of these paths for your information.

The section of the track for which retrospective permission is sought will not be seen from SR11 to the north and as long as the Ancient Woodland strip remains along the southern boundary then it should not be visible from SR172.”

27 Rural Planning Limited

28 “Further to your request for advice, this appears to be a partial re-submission of 20/01343/FUL for retaining the track concerned and excluding the area of associated hardstanding.

29 The case for the development is presented on landscape impact grounds: there is nothing in the submitted Statement arguing an agricultural need for it.

30 Consequently this does not appear to be a proposal falling within my advisory remit.”

31 SDC Tree Officer

32 “I offer no objections to the proposed track and support the planting of hedgerows and trees adjacent to it. The species to be planted should be indigenous mixed and not Conifers as shown, which is not in keeping with the Kent Downs AONB and rural nature of the location.”

### **Representations**

33 We received nine letters of representation, objecting to the application and making the following comments:

- That the track and conifers would fail to conserve and enhance the AONB;
- That there is no requirement for a track which would provide easier access within the site resulting in further damage to the area;
- That the track would adversely impact the adjacent Ancient Woodland;
- That the track would impact adversely upon wildlife and vegetation and that the use of road planings would add toxicity to the soil;
- That the proposal is inappropriate within the Green Belt;
- That the track results in flooding;
- That a further planning application on this site is inappropriate.

### **Chief Planning Officer’s appraisal**

34 The main planning considerations in relation to this application are:

- Impact upon the Green Belt
- Design and impact on the character of the area
- Impact upon neighbouring amenity
- Impact upon the adjacent Ancient Woodland
- Impact upon the adjacent public right of way
- Impact upon flooding

- 35 A previous application, 20/02871/ARGNOT was submitted for the erection of an agricultural building. The Councils Agricultural Consultant was consulted on that proposal and confirmed that the smallholding which extends to 3.9HA, comprised mainly of paddocks and woodland used for the breeding and rearing of horses and did not constitute an agricultural use.

### **Impact on the Green Belt**

- 36 Paragraph 143 states that where a proposal is inappropriate development in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances.
- 37 Paragraph 144 of the NPPF advises we should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Therefore, the harm in principal to the Green Belt remains even if there is no further harm to openness because of the development.
- 38 Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Even if there is absence of harm to openness, there can be harm in principal to the Green Belt from inappropriate development.
- 39 As set out in paragraph 146 of the NPPF, certain forms of development are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Amongst others these include engineering operation.
- 40 The proposed works would be considered to represent an engineering operation. The works result in a minimal change in the level of the land and accordingly it is not considered that the proposal would have an adverse impact upon the openness of the Green Belt nor would it conflict with the purposes of including land within it. In consequence, it is considered that the proposal would meet the requirements of the NPPF and would be appropriate development in the Green Belt.

### **Design and impact on the character of the area**

- 41 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.
- 42 There are therefore two considerations directly related to a site's AONB status when determining a planning application. Firstly, does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement. A failure to achieve both of these points will result in a conflict with the requirements of the Act.

- 43 Policy EN5 of the ADMP states that the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings will be given the highest status of protection in relation to landscape and scenic beauty. Proposals within the AONB will be permitted where the form, scale, materials and design will conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.
- 44 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated.
- 45 Yearling Coppice Farm lies within the Wooded Downs landscape type as defined by the Countryside Character Assessment SPD, which comprises of an enclosed landscape, gently undulating and folding into steep valleys with broken hedgerows along narrow lanes. The site lies within the Knockholt and Halstead Downs Character Area which comprises of a mainly agricultural and horiculture with many small woodlands.
- 46 In reviewing historical aerial photography of the site the track has been in use since at least 2015/2016 and in visiting the site over winter the track, through continued use, had turned into an unattractive stretch of mud linking separate parts of the site.
- 47 The proposed track would be L-shaped extending for a distance of approximately 80m from west to east to the south of The Bungalow and Bramleys before turning southward to the rear of Bramleys for an additional distance of approximately 80m.
- 48 A newly planted hedge has been planted along the southern stretch of the track that runs east to west behind The Bungalow and Bramleys and a newly planted hedge has been planted along the eastern section of the southern part of the track with deciduous trees planted within the western side of the southern tracks hedge.
- 49 The newly planted hedge comprises of coniferous planting and as confirmed by SDC's Tree Officer and KCC Ecology the appropriate hedging should incorporate indigenous mixed hedging. The Kent AONB's Landscape Design Handbook encourages securing the use of hedgerow planting as being appropriate to local character to integrate and/or screen developments in the wider landscape.
- 50 A condition has been recommended to ensure that an indigenous mixed hedge is planted, which would be appropriate to this locality.
- 51 The proposal would change the route from a grass/mud track to one comprising of a sealed stone/hardcore foundation with 10-15cm of proposed road planings above with a width of approximately 3m. A condition has been imposed to ensure that a sample of the proposed track surface is submitted to the Council to ensure that the materials would be appropriate to the location. The Kent Downs Landscape Design Handbook states that surface materials should be of a dark colour to minimise that the materials would be appropriate within an AONB.



- 52 There are two footpaths lying on the boundaries of the site, SR11 to the north and SR172 to the south. The footpath to the north lies approximately 45m from the western most part of the proposed track, ensuring that the proposed track would not be visible from the footpath.
- 53 Footpath SR172 lies 40m to the south of the southern section of the proposed track, within Ancient Woodland that lies to the south of the site. The track at this point extends north to south with the footpath extending east to west running through the woods, ensuring that there would only be oblique views of the proposed track.
- 54 The proposed track would be located to the rear of The Bungalow and Bramleys with the latter property under the ownership of the applicants. The southern boundary between the site and The Bungalow comprises of a 2m close boarded fence which would obscure views of the proposed track from this neighbour. The only other property within close proximity to the track would be Bellever which possesses mature hedging screening views of the track.
- 55 The proposal would accordingly incorporate an appropriate design that would be screened from wider views from beyond the site replacing a track that fails to enhance the character of the AONB. In consequence the proposal would enhance the character of the AONB meeting the requirements of the NPPF, policies LO8 of the Core Strategy and policies EN1 and EN5 of the ADMP.

#### **Impact upon neighbouring amenity**

- 56 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development.
- 57 The route along which the proposed track would be located has been in use as a track since at least 2015/2016 and in consequence the use of the land for access within the site would not have any greater impact than that which has already occurred.
- 58 In respect to the visual impact of the proposal due to fencing and hedging on the boundaries of the track it is not considered that there would be an adverse impact upon the two neighbours and through the existing use of the track it would not result in additional vehicular activity ensuring that the residential amenities of adjacent properties are retained, meeting the requirements of national and local policies.

#### **Impact upon the adjacent Ancient Woodland**

- 59 The NPPF, at paragraph 175, states that when determining planning applications, local planning authorities should apply a number of principles including the fact that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

- 60 Policy SP11 of the Core Strategy states that the biodiversity of the District will be conserved and opportunities sought for enhancements to ensure no net loss of biodiversity.
- 61 The southern-most stretch of the proposed track extending for a distance of approximately 40m lies adjacent to an Ancient Woodland. The works have already been created although the road planings were subsequently removed.
- 62 KCC Ecology and SDC Trees were consulted on the proposal. KCC Ecology confirmed that whilst the works contravenes standing advice of Natural England and the Forestry Commission in respect to being located within 15m of the Ancient Woodland, due to the existing use of the track and current land use their view was that damage to the trees root system would be minimal and that this could be compensated with through compensatory planting with a replacement native species hedge and additional tree/shrub and/or wildflower meadow ideally within a buffer zone, to add further protection to the ancient woodland and provide biodiversity enhancement.
- 63 SDC's Tree Officer was consulted on the proposal with no objections subject to the planting of a replacement mixed indigenous species hedge.
- 64 These issues could be addressed through the inclusion of an appropriate worded condition.

#### **Impact upon the adjacent public right of way**

- 65 Public rights of way extend to the north and south of the site. However, these would be unaffected by the proposed development.

#### **Impact upon flooding**

- 66 The materials used in the construction of the track are porous and with the track lying adjacent to an open area of pasture it is not considered that the proposal would result in any additional flooding on site.

#### **Other issues**

- 67 The current application differs from the previous submissions and it is accordingly appropriate to consider the current proposal.
- 68 The area of hardstanding adjacent to the northern footpath is an enforcement matter and so is being considered separately from this application.
- 69 Since the track is established the requirement for it is not material to the consideration of this planning application.
- 70 The intensity of use within the site and the increased accessibility that the track may provide would not represent a planning consideration but an economic consideration of the applicants.

## Conclusion

- 71 The proposed works would represent appropriate development that would not have an adverse impact upon the openness of the Green Belt, would conserve and enhance the Area of Outstanding Natural Beauty, would not impact detrimentally upon local amenities, the adjacent public right of way or create additional harm to the adjacent protected trees meeting the requirements of national and local planning policies.
- 72 It is therefore recommended that this application is granted.

## Background papers

Site and block plan

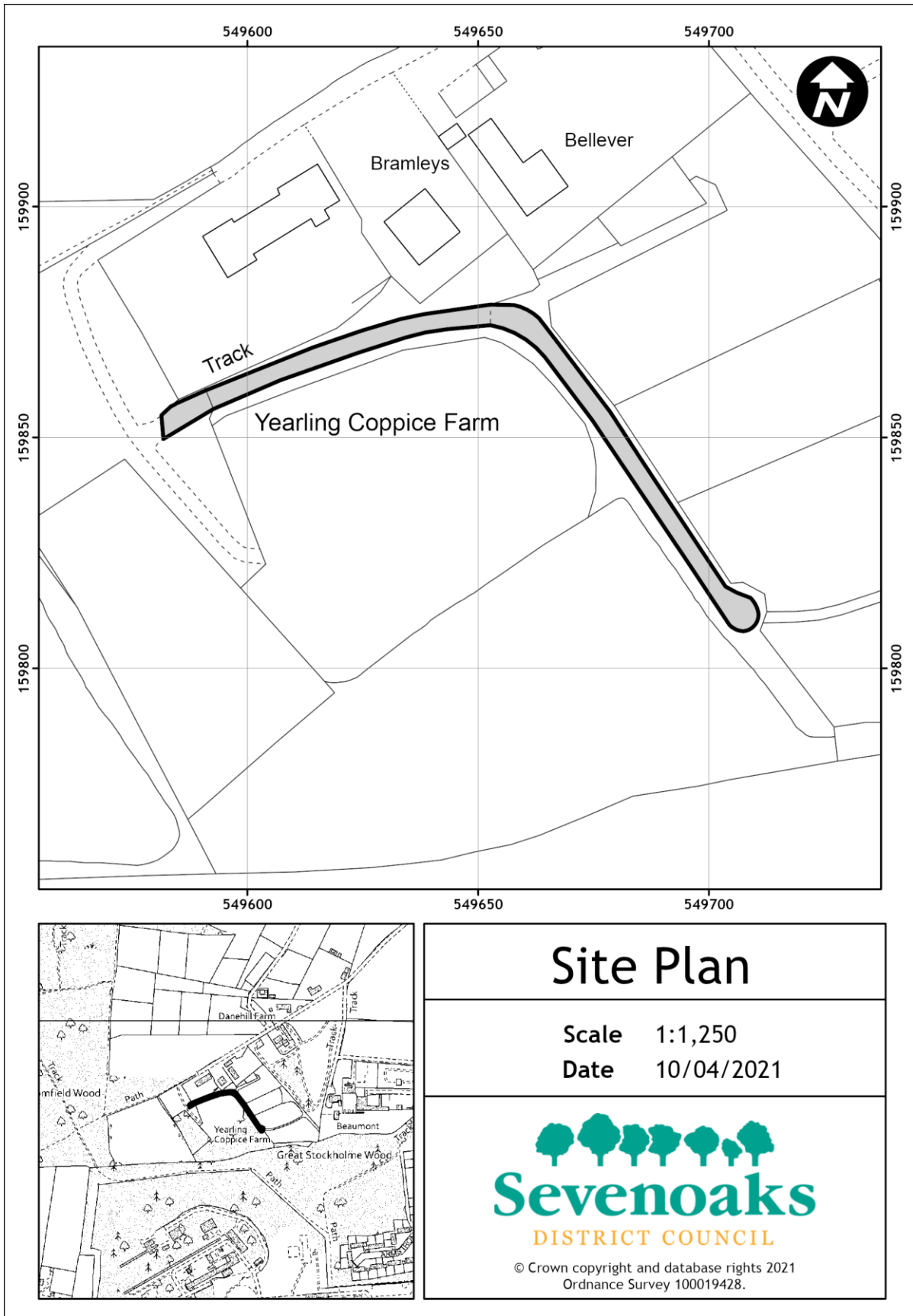
Contact Officer(s): Guy Martin

01732 227000

**Richard Morris**  
**Chief Planning Officer**

[Link to application:](#)

[Link to associated documents:](#)



# Site Plan

Scale 1:1,250  
 Date 10/04/2021



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 Ordnance Survey 100019428.

BLOCK PLAN

