

4.3 21/01388/FUL

Date expired 15 July 2021

Proposal:

Building operations relating to Lawful Development Certificate 20/02590/LDCPR, erection of fencing and entrance gates.

Location:

Land South Of 1 Singles Cross Cottages, Blueberry Lane, Knockholt KENT TN14 7NH

Ward(s):

Halstead, Knockholt & Badgers Mount

Item for decision

Councillor Williamson has referred the matter to Committee so that the implications on the openness of the Green Belt, impact on public right of way, highway conditions and viability can be discussed.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) For the avoidance of doubt the information to which this decision relates is as follows: Drawing Nos.: 2705(02)1250 B, 001 A, 002 A, 003 A, 005 A; 2705(08)002 A, 2705(08)003 B, 2705(08)005 A, 2705(08)006 A, 2708(08)007 and A2705(08)008.

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

3) Within three months of commencement of works a scheme of landscaping shall be submitted to the Local Planning Authority for approval in writing to include details of the size and species of any trees in the close vicinity of the barns to be retained or removed and details of the size and species of the proposed hedging. The landscaping shall be carried out in accordance with the approved details prior to first occupation of the buildings. If within a period of five years from first occupation of the buildings, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of a similar size and species.

To safeguard the visual appearance of the area as supported by EN1 of the Sevenoaks Allocations and Development Management Plan.

4) To ensure the protection of badgers and nesting birds, all works will be carried out in accordance with the details contained in the Conclusions section of

the Letter from Julian Thornber, AA Environmental Limited to Mr Cazaly, Cazaly Developments dated 16th March 2021.

In the interests of the ecology of the site as supported by policy SP11 of the Council's Core Strategy.

5) No external lighting shall be affixed to the buildings or installed on the site other than in accordance with a "lighting design strategy for biodiversity" which shall first have been submitted to the Local Planning Authority and approved in writing. The lighting strategy will: a) Identify those areas/features on site that, due to their potential for use by bats, are particularly sensitive to lighting impacts (including any biodiversity enhancement features) b) Show how and where external lighting will be installed in accordance with the Conclusions section of the Letter from Julian Thornber, AA Environmental Limited to Mr Cazaly, Cazaly Developments dated 16th March 2021 and with 'Guidance Note 8 Bats and Artificial Lighting' (Bat Conservation Trust and Institute of Lighting Professionals). All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy and will be maintained thereafter in accordance with the strategy.

In the interests of the ecology of the site as supported by policy SP11 of the Council's Core Strategy.

6) Prior to the completion of the development hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These will be in accordance with the Conclusions section of the Letter from Julian Thornber, AA Environmental Limited to Mr Cazaly, Cazaly Developments dated 16th March 2021 and will include the provision of integrated bat and bird boxes and native species planting. The approved details will be implemented and thereafter retained.

In the interests of the ecology of the site as supported by policy SP11 of the Council's Core Strategy.

7) The materials to be used in the exterior faces and roof of the buildings shall be as specified on the accompanying application forms.

To ensure that the proposed development does not prejudice the appearance of the locality, as supported by policy SP1 of the Council's Core Strategy.

Informatives

1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst

some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

2) 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 The site accommodates two former agricultural, barn structures located some 190m to the south of 1 Singles Cross Cottages and to the rear of Blueberry Lodge, which has itself been the subject of a barn conversion. The barns are located towards the southern boundary of a large, open field, with woodland to the north and a tree line along the south-western boundary.
- 2 There is a gated access onto the field with a grass trackway leading towards the location of the barns. The site is located approximately 650m from the centre of Knockholt Pound to the east.
- 3 A right of way runs to the north and west of the site across the field.
- 4 The site is not within an Area of Outstanding Natural Beauty or Conservation Area.

Description of proposal

- 5 The proposals seek permission for physical works to the exterior of the building and the erection of fencing and gates at the entrance to the site.
- 6 Permission is not sought for the use of the barns or the curtilage to these buildings, as this benefits from permitted development.
- 7 Neither is permission sought for the access driveway, as this also benefits from permitted development.
- 8 The external changes to the barns comprise re-cladding the external elevations in cedar timber panels and re-roofing in grey slate. New door and windows openings would be limited and would be finished in anthracite grey aluminium.
- 9 Whilst works to the interior do not require planning permission, they indicate both units would comprise 2 bedroom, self-contained units of accommodation.
- 10 The new entrance gates would be recessed 6m into the site. Post and rail fencing is proposed to run along the northern boundary of the site and to define a modest curtilage around each of the buildings. New native hedging is proposed on the outside of the fence line. The gates and fencing do not form part of the original application description (added to amended description), but are likely to benefit from permitted development.
- 11 The applicant has advised that no trees are intended to be removed.

Relevant planning history

- 12 98/01956/FUL: Demolition of two agricultural buildings and the erection of a single detached dwellinghouse. Refused.
- 13 14/02532/PAC: Prior notification for a change of use of agricultural building to a dwelling house (use Class C3). This application is made under Class MB of The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 - Refused 29.9.2014 on the grounds of insufficient information to determine the degree of operational development necessary, lack of information regarding risk from contamination and inappropriate location - This related to the western-most of the two barns.
- 14 14/02533/PAC: As above, but for Barn 1 (eastern-most barn). Refused for same reasons outlined above.
- 15 19/03434/PAC: Prior Notification for a change of use from agricultural use to a dwelling house and associated operational development (Class Q Of Town and Country Planning (General Permitted Development) (England) Order 2015 - Refused on 30.1.20, in summary, on the grounds that the works went beyond that permitted under Class Q and the curtilage would exceed that permitted.

- 16 20/01796/PAN: Prior notification for change of use from agricultural use to Class C1 (hotel). Application made under Class R of The Town and Country Planning (General Permitted Development) (England) Order 2015. Notification only - acknowledged 6.7.21.
- 17 20/01804/LDCPR: Formation of vehicle access and hardstanding. (Under Schedule 2, Part 2, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015.) Granted 3.9.2020
- 18 20/02590/LDCPR: Change of use from agricultural buildings to class C1 Hotel (Under Class R of the Town and Country Planning (General Permitted Development)(England) Order 2015.) Granted 20.11.2020

Policies

- 19 National Planning Policy Framework (NPPF)
- 20 Core Strategy (CS)
- L01 Distribution of Development
 - L08 The Countryside and the Rural Economy
 - SP1 Design of New Development and Conservation
 - SP11 Biodiversity
- 21 Allocations and Development Management Plan (ADMP)
- SC1 Presumption in Favour of Sustainable Development
 - EN1 Design Principles
 - EN2 Amenity Protection
 - EN5 Landscape
 - T1 Mitigating Travel Impact
 - T2 Vehicle Parking
 - T3 Provision of Electrical Vehicle Charging Points.
- 22 Other:
- Development in the Green Belt SPD

Constraints

- 23 The following constraints apply:
- Green Belt
 - Adjacent to Public Right of Way

Consultations

- 24 Knockholt Parish Council (in summary):
- 25 We dispute the assumption in the D&A statement that the quoted Appeal decision makes permission a foregone conclusion.
- 26 In other totally unrelated Appeal cases, Inspectors have mentioned previous cases that have been won at Appeal, but they have then made and justified a different decision in the case they are reviewing.
- 27 Looking at the details of the quoted case it shows a far more substantial building, apparently capable of re-use, whereas these barns are almost non-existent. The 'Structural Survey' is a resubmit of the one from 2019 - which is completely inaccurate when compared with a previous Appeal Inspector's comments on the barns in 1998 (Appeal /APP//G2245/A/98/298149/P7) where he dismisses the claim that they were 'sound' then!
- 28 There was never an actual 'curtilage' to the barns as they were accessed direct from the working Blueberry Farmyard, not from Blueberry Lane, where the gate was only for stock and boundary maintenance.
- 29 The proposed access is on to what is an inappropriate de-restricted single-track lane with passing places, poor site lines, and regularly used as a cut through for speeding vehicles.
- 30 To obtain adequate site lines and a turning circle for large vehicles would require removal of considerable amounts of ancient indigenous hedgerow, contrary to current recommendations.
- 31 The proposed access road will necessitate at least 130m of agricultural land being hard surfaced, plus further destruction of existing pasture for vehicle parking and turning on site.
- 32 We note in the current application for residential development in Randles Lane there is comprehensive advice from the Fire Service on their requirements for emergency access on a previously developed and surfaced site.
- 33 We have not yet had the benefit of the usual required information on the footpath which runs in close proximity to the barns, development of which will adversely affect the views of what is idyllic rural scenery.
- 34 The proposed essentially 'new build' structures look exactly what they are - new residential units - as they are a resubmission of the previous 2019 application (refused) for conversion of the barns to residential - and will be a glaring intrusion in an unspoilt Green Belt location.
- 35 For development to be permitted in the GB requires preservation or enhancement, none of which this does.
- 36 We support all neighbours' objections to this inappropriate attempt to develop the Green Belt.

- 37 Were this application to be allowed, we strongly request that all PD rights for the entire site are removed.
- 38 KCC Highways:
Proposals do not meet criteria to warrant involvement from the Highway Authority.
- 39 KCC Public Rights of Way Officer:
- 40 “Public Right of Way Footpath runs through the field where the development takes place but is approximately 24 metres from the north-western corner of barn 2. The route closer to the barns, presently walked to a stile in the boundary is not on the correct legal line. I enclose a copy of the Public Rights of Way network map showing the legal line of this path for your information.
- 41 This path runs from Blueberry Lane to New Years Lane a distance of 1.64 kilometres through fields and woods, with no dwellings apart from those on the road at either end. The rural aspect of the footpath will be adversely changed by the introduction of a vehicle access and two aparthotels, replacing the two gently dilapidating agricultural structure.
- 42 I note that the Location Block Plan red line area does not match with the Landscaping Plan. There is an extra turning area to the northwest on the Landscaping Plan. This also extends further west than the area granted under the lawful development certificate for SE/20/01804/LDCPR and would therefore, I presume, require further planning permission to be sought”.
- 43 K.C.C. Ecology (in summary):
Are satisfied that sufficient information has been submitted to inform the determination of the application. Conditions relating to mitigation and enhancement are recommended.
- 44 Arboricultural Officer:
- 45 “Views of the barns location is partially obscured due to its location in the corner of the field and the mature trees located immediately adjacent to their south. Those mature trees are an effective screen of the site for local residents and from the highway. I am aware however that PROW runs immediately to the north of the site.
- 46 No details have been given regarding the fate of the aforementioned trees although it does appear that these will be removed to accommodate the proposals as shown on drawing 2705(08)002, which effectively loses any screening that exists. I have noted that LDC's show previous approval for the proposals.
- 47 Should the driveway/access be constructed, I suggest that a suitable material is used for it to blend in with the landscape, which can be conditioned.

- 48 The gateway/access design should also be conditioned to show suitable design for the location. Vision splays have not been referred to by KCC. I am concerned over how much hedging will need to be removed to accommodate suitable safety when leaving the site by vehicle. Are the dimensions as referred to on drawing number 2705(08)003 sufficient and realistic. Details of the new native hedging should be conditioned to show a suitable indigenous mix of species.”

Representations

- 49 Comments have been received from seven local residents and the Knockholt Society raising the following objections, in summary:
- Structures are inappropriate for turning into “hotel” units.
 - Neither preserves nor enhances Green Belt/against spirit of the Green Belt.
 - No evidence an apart-hotel would be viable.
 - Buildings not capable of conversion.
 - What about impact on adjacent footpath which runs across the field within several metres of the site.
 - No pre-existing access into the site.
 - Access would require removal of hedgerow to gain sightlines and 130m of agricultural land being hardsurfaced.
 - Query suitability of access by emergency services.
 - Questions over suitability of infrastructure/drainage.

Chief Planning Officer’s Appraisal

- 50 Background:
- 51 As the planning history of the site is relatively complicated, the following is provided as a summary:
- 52 In January 2020 an application was submitted to ascertain if prior approval was required for the change of use of two former agricultural buildings into two no.2-bedroom dwellings (20/03434/PAC). The application was made under Class Q of the Town and Country Planning (General Permitted Development) Order 2015 as amended. In summary, this Class allows for the conversion of agricultural buildings into dwellings subject to a number of criteria.
- 53 Due to the extent of works proposed, the proposals were considered to amount to rebuilding of the barn and thus to exceed the limitation on physical works allowed under this Class. Furthermore, inclusion of the access would result in the curtilage exceeding the relevant criteria under this Class. This application was refused.
- 54 In June 2020, the applicant submitted a notice advising that they intended to change the use of the barns into a flexible use (in this case specifying a hotel). This notice was submitted under Class R of the Permitted Development legislation. This Class of development permits such changes without recourse to the Council.

- 55 In September 2020, a Lawful Development Certificate was submitted for the formation of a vehicular access and hardstanding. This decision again, fell to be determined on the facts of the case. In summary, as the access would not be onto a trunk or classified road and was required in connection with development permitted under Class R, the certificate was granted.
- 56 The Lawful Development Certificate granted in November 2020 simply confirmed that the proposals would meet the criteria listed under Class R (which permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within a number of use classes, including Class C1 (hotels).
- 57 It is key to note that under Class R there is no requirement to consider the structural condition of the building, as there is under Class Q. This explains why the application above under Class Q was refused, whereas the application submitted under Class R was granted.
- 58 The agent confirms that frame repairs were undertaken in 2013 to make the structure sound. In addition, a structural support has been submitted in support of this application. In summary the report concludes that the main steel frames to the buildings are sound and capable of being retained, although it is clear that it will be necessary to re-clad and re-roof the barns and provide a new concrete floor.
- 59 Third parties have raised questions over the ability of the building to be converted and that the works involved would essentially amount to a rebuild.
- 60 An appeal decision from 2018 expressly considers this issue (appeal ref: APP/F1610/W/17/3188502, Middle Dutesbourne, Gloucestershire). The decision explains that permitted development rights under Class R are restricted to the change of use of the building. They do not grant any physical conversion works. Any associated operational development that would be reasonably necessary to use the building or land for the proposed use under Class R is required to be the subject of a separate planning permission.
- 61 The term “associated operational development” is defined within Class R.
- 62 This sets a clear expectation that any such operations are limited to those reasonably necessary so that the building and land can be used for a use granted under Class R. This restricts works so as to avoid superfluous accommodation or features, for example.
- 63 However, it is evident that substantial works can be considered acceptable, including new elevations and roof and ground bearing concrete floor, if the works are required to enable the building to function for its required purpose (in this instance as tourist accommodation/apart-hotel). It is also clear that consideration of whether the works involved are so significant that they go beyond conversion, is not a determining factor.

- 64 In this instance, the Council have already confirmed that the change of use of the barns does not require prior approval and therefore the use already benefits from planning permission granted by the permitted development right under Class R.
- 65 Returning to the appeal decision, at paragraph 16, the Inspector states:
- “The confirmation by the Council that prior approval was not required means that permission exists for the change of use of the building to a hotel. This is a very significant factor and it cannot be set aside. The development that is subject to this appeal is not for the change of use, nor is it for the construction of a new hotel. It is expressly for the building works that relate to implementing the change of use. The works proposed are extensive and would result in new external walls on all four elevations and a new external roof. However, given the nature of the existing building, I cannot envisage that works which were significantly more modest than what is proposed would be sufficient to allow the building and land to be used for its intended purpose. The works would not exceed what is reasonably necessary.”
- 66 In light of the above, it is my conclusion that consideration of this application should be focussed on the impact of the changes to the exterior of the building and whether or not they would have an acceptable impact.

Policy Background

- 67 Presumption in favour of sustainable development -

Paragraph 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.

Paragraph 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; 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 7 (see reference above) relates to policies including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

Principal issues

- 68 The main issues requiring assessment relate to:
- Impact on the Green Belt

- Appearance and impact on visual amenity/landscape
- Other matters

Impact on Green Belt

- 69 Whilst there is a presumption against new buildings in the Green Belt, there are exceptions to this.
- 70 Bearing in mind the use benefits from under the prior approval process and the access also benefits from permitted development permission (as does the curtilage to the buildings), and putting the visual appearance to one side as the impact of this will be considered separately below, I consider the implications of the changes to the exterior of the building to be very limited in Green Belt terms.
- 71 In my view the tests to apply in the particular circumstances are akin to paragraph 149 g) of the NPPF. This states, amongst other things, that exceptions to inappropriate development include “limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.”
- 72 Section 7 of the Development in the Green Belt SPD takes a similar approach to proposals for previously developed land and reflects the tenet of the NPPF.
- 73 In this instance, whether or not the barns are presently enclosed, their overall form in terms of height and size is clearly definable.
- 74 The addition of cladding to the buildings would not increase the height or size of the existing buildings and in the circumstances, I do not consider that the three-dimensional impact of the built form would be greater than the existing.
- 75 It is therefore my conclusion, that the proposals would represent appropriate development in the Green Belt.

Design and impact on visual amenity and the character of area

- 76 Policies SP1 of the Core Strategy seek high quality development whilst protecting the environment. L08 supports the maintenance and diversification of the rural economy, including rural tourism projects, if they conserve the countryside. EN1 of the ADMP also seeks high quality design and policy EN5 seeks to conserve the character of the landscape.
- 77 The southern and western portion of the field within which the barns drops considerably in level relative to the eastern part adjacent to the road. There is also tree screening to the east of the barn within the boundary of Blueberry Lodge. Because of this, the barns would not be readily visible to the road.

- 78 There is a footpath which runs from the north-eastern corner of the field directly south-westwards across the field, passing close to the west of the barns. However, the official Public Right of Way is set approximately 30m slightly further to the west. Whatever the route of the path, the southern portion would have a clear view of the application barns.
- 79 I am mindful that planning policy supports alternative uses within the countryside and that the re-use of existing buildings often involves complete re-cladding and re-roofing. I do not consider such works objectionable in principle.
- 80 Viewed from the public footpath, whilst the use itself and associated access and parking would contribute to the developed nature of the site, this application is not considering the implications of these aspects. As noted above, these elements do not require express permission.
- 81 In this instance, it is proposed to finish the barns in timber cladding with a grey slate roof. I consider this would reflect traditional materials seen in the wider locality and appear suitably subdued in terms of colouring, appropriate to their relatively isolated and rural setting. For these reasons, though they would be visible to the footpath, I do not consider the buildings themselves would appear visually prominent within the countryside or to be harmful to the visual amenities of the area.
- 82 I therefore consider the proposals would be policy compliant in this regard.

Residential Amenity

- 83 Policy EN2 of the ADMP requires that any development should safeguard the amenities of existing and future occupiers of nearby properties.
- 84 The only property likely to be directly affected would be Blueberry Lodge. This itself was the subject of a barn conversion. The Lodge itself would be set a minimum 50m from the closest barn (Barn 1 on plan). There is existing foliage along the party boundary, which would soften the impact of the proposals. I note two windows are proposed in the western (rear) elevation of Barn 1. Because of the distances involved direct overlooking of habitable space would be limited, however, these windows could be conditioned to be obscure glazed. Otherwise, I do not consider the appearance of the buildings would be intrusive.
- 85 In the circumstances, I consider the proposals to be policy compliant in this regard.

Other matters

- 86 The highway implications of the proposals, including visibility splays, do not fall to be considered, as permission is not required for the access.

87 Similarly, as the proposals relate only to the operational development (cladding of the building etc.), it would be unreasonable to impose conditions relating to the impact of the change of use. However, the applicant is amenable to conditions relating to ecological mitigation, enhancement and control of lighting on the site.

Community Infrastructure Levy (CIL)

88 There are no CIL implications from the external works proposed.

Conclusion

89 In light of the above, I consider the proposals represent appropriate development within the Green Belt. Furthermore, I consider the building operations proposed would be sympathetic and conserve the character and appearance of the locality. The impact on the occupiers of the neighbouring property would also be acceptable.

90 It is therefore recommend that the application is approved.

Background papers

Site and block plan

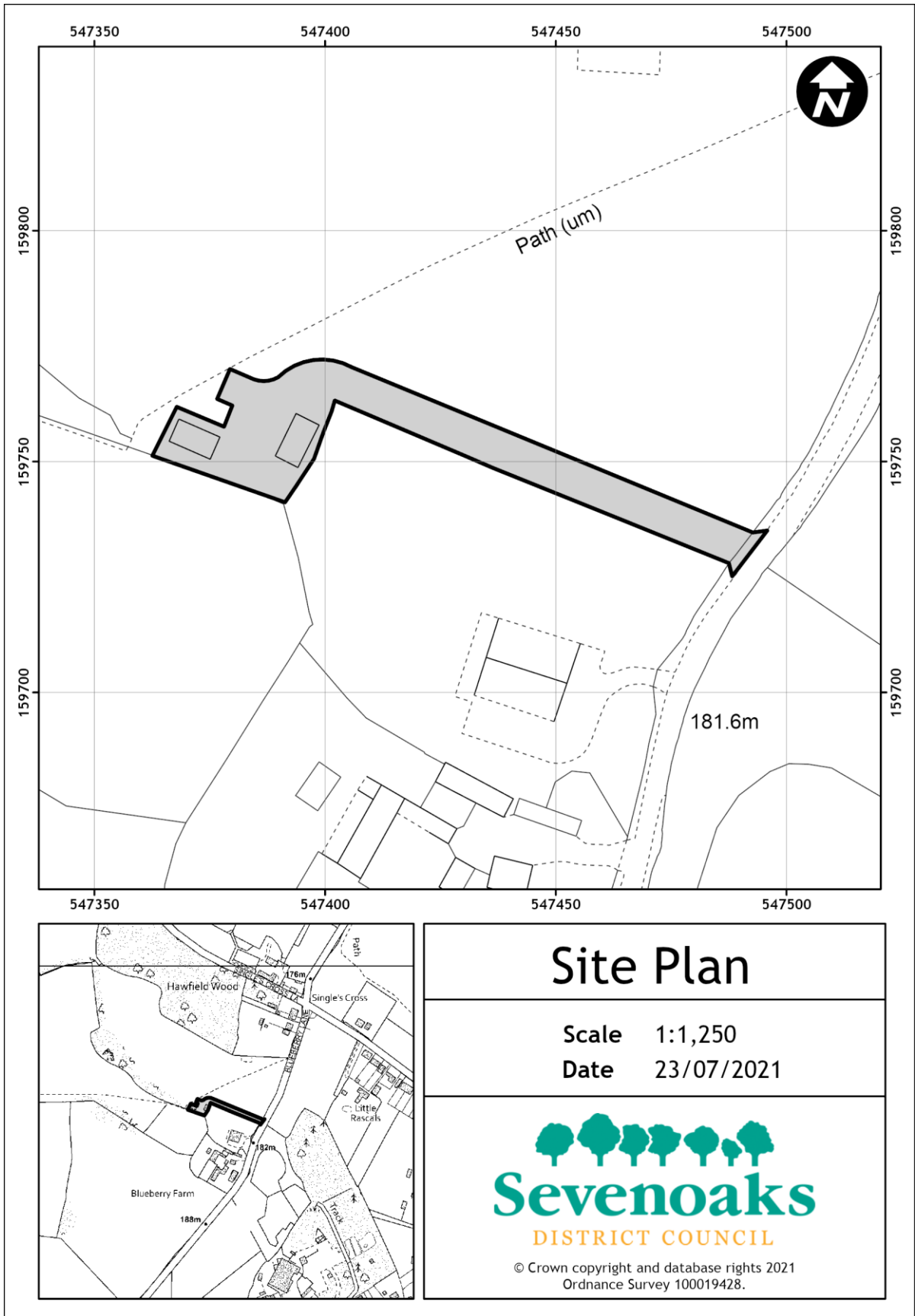
Contact Officer(s):

Jim Sperryn: 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



BLOCK PLAN

