

Proposal:	Erection of 35 apartments, including the provision of affordable homes, together with access, parking and landscaping.
Location:	Former West Kent Cold Store, Rye Lane, Dunton Green, Kent
Ward(s):	Dunton Green & Riverhead

ITEM FOR DECISION

This application has been referred to the Development Control Committee by Councillor Brown on the grounds that he has concerns regarding the method in which the existing site and development have been marketed.

RECOMMENDATION A: That planning permission be GRANTED subject to the completion of the necessary S106 legal agreement within 28 days of the date of the Committee meeting, or an alternative date agreed in writing by the Development Manager, and 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) The development hereby permitted shall be carried out in accordance with the following approved plans: 2500-A-1000-A, 2500-A-1011-J, 2500-A-1050-E, 2500-C-1100-D, 2500-A-1200-F, 2500-A-1201-F, 2500-A-1203-E, 2500-A-1205-E, 2500-C-3116-D, 2500-A-3215-H, 2500-A-3216-C, 2500-A-3217-C, 2500-A-3315-H, BKH-RYE_HTA-L_P3-00-DR_1915-C and BKH-RYE_HTA-L_P3-00-DR_1916-C.

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

3) Prior to the commencement of above ground works details of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

4) Soft landscaping works shall be carried out in accordance with the approved plan BKH-RYE_HTA-L_P3-00-DR_1915-C and where appropriate existing trees on the site shall be replanted within the landscaping scheme. The landscaping works shall be completed prior to the occupation of the approved development.

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

5) If within a period of five years from the completion of the development, 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 similar size and species.

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

6) Hard landscaping works shall be carried out in accordance with the approved plan BKH-RYE_HTA-L_P3-00-DR_1916-C. The landscaping works shall be completed prior to the occupation of the approved development.

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

7) The levels of the development shall accord with those indicated on the approved plan 2500-A-1011-J.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

8) The development shall be carried out in full accordance with the recommendations of the Acoustic Planning Report by WSP dated October 2017.

To protect the living conditions of residential occupier, in accordance with policies EN2 and EN7 of the Sevenoaks Allocations and Development Management Plan.

9) Prior to the installation of external lighting, details of the position, design and luminance levels of the lighting shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

10) The boundary treatments for the development shall be carried out in accordance with the approved plan 2500-A-1203-E. The boundary treatments shall be completed prior to the occupation of the approved development.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

11) The vehicle parking spaces and cycle storage areas shown on the approved drawing number 2500-A-1201-F shall be provided prior to first occupation of the development hereby approved and kept available for such use at all times and no permanent development shall be carried out on the land so shown or in such a position as to preclude access to the vehicle parking spaces and cycle storage areas.

To ensure a permanent retention of vehicle parking for the property as supported

by Policy T2 of the Sevenoaks Allocations and Development Management Plan.

12) No hard or soft landscape works shall take place until a scheme for the provision of at least one communal electrical charging point has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to occupation of the approved development.

To encourage the use of low emission vehicles, to reduce CO₂ emissions and energy consumption levels within the District, in accordance with policy T3 of the Sevenoaks Allocations and Development Management Plan.

13) Prior to any works commencing within the vegetated areas of the site a detailed reptile mitigation strategy must be submitted for written approval by the local planning authority. The strategy must include the following information:- Reptile survey;- Details of reptile receptor site (if required);- Translocation methodology;- Timing of works;- Details of who will be carrying out the works. The strategy must be implemented as detailed within the approved report.

To ensure the long term retention of reptiles within the area as supported by policy SP11 of the Sevenoaks Core Strategy.

14) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the local planning authority.

To ensure that unexpected contamination identified during development groundworks is identified and appropriately remediated in accordance with the National Planning Policy Framework.

15) Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.

To prevent infiltrating water causing re-mobilisation of contaminants present in shallow soil/made ground which could ultimately cause pollution of groundwater.

16) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

To prevent the potential risks associated with the use of piling where contamination is an issue.

Informatives

- 1) The proposed development has been assessed and it is the Council's view that the CIL is payable. Full details will be set out in the CIL Liability Notice which will be issued with this decision or as soon as possible after the decision.
- 2) The applicant should ensure that crime prevention is addressed effectively for the site in conjunction with discussions with the Kent Police Crime Prevention Design Advisors (CPDAs).

Note to applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line (www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Was provided with pre-application advice.
- 2) Was updated on the progress of the planning application.

RECOMMENDATION B: That planning permission be REFUSED for the following reason:-

- 1) The applicant, in their failure to complete the necessary S106 legal agreement, has failed to secure an appropriate provision of on-site affordable housing. This is contrary to the National Planning Policy Framework and policy SP3 of the Sevenoaks Core Strategy.

Informatives

- 1) The proposed development has been assessed and it is the Council's view that the CIL IS PAYABLE. Should this decision be appealed and the appeal is

allowed full details will be set out in the CIL Liability Notice which will be issued as soon as possible after the appeal decision is issued. Further information can be found here:

<http://www.sevenoaks.gov.uk/services/housing/planning/planning-applications/community-infrastructure-levy-cil>

Note to applicant

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- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Working in line with the NPPF, the application was refused as the proposal failed to improve the economic, social or environmental conditions of the area.

Description of proposal

- 1 The application seeks full planning permission for the development of the final phase of the redevelopment of the former West Kent Cold Store site. As part of the wider redevelopment of the site this phase was to provide 2300m² of office (B1) accommodation and a 460m² medical facility.
- 2 The legal agreement that was attached to the decision notice for this application (09/02635/FUL) contained a clause which meant that in the event an agreement could not be reached with the local NHS primary care trust on an appropriate medical facility for the site then a contribution could be paid to the local NHS primary care trust.

- 3 This financial contribution has since been paid and so the applicant has discharged their obligation relating to the approved medical facility. Planning permission for the office accommodation remains.
- 4 It is therefore proposed to replace the approved office development with a building comprising 35 apartments, including the provision of affordable homes, together with access, parking and landscaping, to continue the residential development across the remainder of the site.
- 5 The 1 and 2 bed apartments would be contained within a large linear block, which would run parallel with the surrounding development in a north-south orientation. The building would be three storeys in height and parking would be provided to the rear of the apartments with access via an underpass punched through the block within the southern half of the building.
- 6 The development proposes to provide 40% of the units as affordable housing, which equates to 14 units in total (eight 1 bed units and six 2 bed units).
- 7 Vehicular access to the site would be from the already established access into the site from Rye Lane. A total of 66 parking spaces are proposed to be provided, 10 of which are for visitors.

Description of site

- 8 As noted above, the site comprises the final phase of a wider development of 500 dwellings. The site is roughly rectangular in shape and extends to around 0.78 acres in total.
- 9 The site remains undeveloped but does have an implemented planning permission, which includes the delivery of a Medical Centre (D1 Use Class) and commercial units (B1 Use Class).
- 10 The site is currently used by Berkeley Homes to house a temporary sales and marketing suite for the residential homes that form part of the wider development. This suite is surrounded by landscaped garden land as well as a temporary bus turning area. The use of the marketing suite will cease and the building will be required to be removed from site prior to May 2020 in accordance with a previously imposed condition.
- 11 The existing temporary bus turning area will also no longer be required once the continuous loop road is installed through the wider development site.

Constraints

- 12 The site lies within the built urban confines of Dunton Green and a source protection zone.

Policies

Core Strategy (CS)

- 13 Policies:

L01 Distribution of Development

- L02 Development in Sevenoaks Urban Area
- SP1 Design of New Development
- SP3 Provision of Affordable Housing
- SP5 Housing Size and Type
- SP7 Density of Housing Development
- SP8 Economic Development and Land for Business
- SP11 Biodiversity

Allocations and Development Management Plan (ADMP)

14 Policies:

- SC1 Presumption in Favour of Sustainable Development
- EN1 Design Principles
- EN2 Amenity Protection
- EN7 Noise Pollution
- EMP5 Non Allocated Employment Sites
- T1 Mitigating Travel Impact
- T2 Vehicle Parking
- T3 Provision of Electrical Vehicle Charging Points

Planning history

- 15 09/02635/FUL - Redevelopment of site so as to accommodate a mixed-use development comprising 500 one, two, three, four and five bedroom residential units; 2,300sqm of commercial floor space (use class B1) and 460sqm medical facility together with associated access roads, car parking, landscaping and open space - Granted.
- 16 Since this original grant of planning permission several variation of condition applications, minor material amendment applications and non-material amendment applications have been granted. However, these have not significantly altered the original scheme.

Consultations

Dunton Green Parish Council - 13.12.17

- 17 Having deliberated, the Parish Council can neither support nor object to the application, but wishes to make comments about concerns that it has in two key areas: the ratio of affordable housing across the full Ryewood development and parking across the development.
- 18 This proposal does incorporate 40% affordable housing. Whilst this is commendable, the Parish Council would have liked to have seen a much higher proportion in this application to go some way to redressing the reduced allocation (20%) of affordable housing that was negotiated for the rest of the development on the grounds that it was uneconomic to provide 40% across the development. When the District is crying out for smaller, affordable homes this was an opportunity to make a more significant contribution towards affordable housing stock.
- 19 With regard to parking, this new proposal does go beyond the unrealistically low parking allocations that must be met by the developer. However, there are already significant issues on the development in relation to the lack of

parking provided and a scheme to provide more parking for the current development would have been welcomed.

Dunton Green Parish Council - 16.02.18

- 20 Whilst the Parish Council accepts that parking provision for this application has been increased (as a response, presumably, to the high volume of comments and concerns raised in relation to the original version of this application), there is still an acute shortage of parking provision across the development as a whole. The Parish Council would like to see further parking increases to help alleviate the constraints already affecting current residents of Ryewood.

Independent Chartered Surveyors - 03.05.18

- 21 “We consider that the marketing campaign has been carried out in accordance with normal marketing practice and as such we do not consider that it is conceivable that any potentially interested party would not have been aware of the availability of this site.
- 22 We do not consider the site could be considered as an appropriate location for a children’s day nursery use and the marketing did result in 7 enquiries over the marketing period. It transpired that none of these occupiers were prepared or able to proceed and the consensus is in particular that the site does not work due to overlooking issues which is obviously very relevant given the nature of their use.
- 23 In terms of other D1 occupation we would not consider that the site or the proposed building would provide a satisfactory solution or be commercially viable for the vast majority of the potentially interested parties and indeed the consented scheme would not be an appropriate structure in many instances.
- 24 It is clear from the marketing undertaken that the development community do not consider the location to be viable for B1 office space and we are confident that the marketing bears this out entirely.
- 25 We conclude that the viable use for the site is residential in nature, certainly residential led and we see no reason to delay engaging on an appropriate scheme as we do not foresee any imminent likelihood of the current market conditions changing in favour of the consented scheme.”

Head of Economic Development and Property - 22.02.18

- 26 Concludes that the applicant has now satisfactorily demonstrated through their marketing that they have sought to establish demand and that, regrettably, it hasn’t generated viable interest in the site for its original employment and D1 purposes.

Planning Policy Officer - 08.02.18

- 27 No objection raised.

County Highways Engineer - 09.01.18

- 28 No objection. Unallocated parking spaces suggested to provide parking for the remainder of the development.

County Highways Engineer - 29.01.18

- 29 No objection.

Environment Agency - 15.12.17

- 30 No objection subject to the inclusion of three conditions on any grant of planning permission.

Thames Water - 28.11.17

- 31 No objection.

Natural England - 19.12.17

- 32 No comments.

County Biodiversity Officer - 22.02.18

- 33 No objection subject to the inclusion of a condition on any grant of planning permission.

Arboricultural and Landscape Officer - 06.12.17

- 34 No objection subject to the possible inclusion of existing trees in the proposed landscaping scheme.

Kent Police - 06.12.17

- 35 No objection subject to the inclusion of an informative on any grant of planning permission.

Representations

- 36 We received 11 letters of objection relating to the following issues:
- Parking provision for the application site and across the remainder of the development
 - Loss of commercial space and medical facilities
 - The provision of too many flats across the development and
 - The proposed location of the bus stop

Chief Planning Officer's appraisal

Principal issues

- 37 The main planning considerations are:

- The principle of the development;
- The potential impact on highways safety and parking provision;
- The potential impact on the character and appearance of the area;
- The potential impact on residential amenity;
- Affordable housing provision;
- The potential impact on biodiversity;
- Land drainage;
- Contamination;
- The Community Infrastructure Levy (CIL); and
- Sustainable development.

The principle of the development

- 38 The applicant has carried out a detailed marketing exercise of the site, for a period of 12 months, relating to the granted commercial development. This exercise has taken account of an employment use of the site as well as employment generating uses for the site.
- 39 The findings of this exercise are such that the commercial development of the site is no longer viable. The marketing exercise has also found that other commercial developments and non-commercial developments would not be viable for this site.
- 40 I am therefore satisfied that the applicant has provided sufficient justification to demonstrate the acceptability of the loss of the approved commercial development. This view is shared by both our Head of Economic Development and Property and our Planning Policy Officer.
- 41 To further test the validity of the content of the marketing report we have asked an independent chartered surveyor to examine it. As can be seen from the comments received above, the marketing campaign has been carried out in accordance with normal marketing practice and it is therefore considered that any potentially interested party would have been aware of the availability of this site.
- 42 The independent chartered surveyor considers that a B1 use, or indeed any other use, would not be appropriate for the site. This is mainly due to the location of the site. The conclusion is therefore drawn that the viable use for the site is residential in nature.
- 43 The principle of the creation of a wholly residential development on this final phase of the wider development is therefore acceptable subject to the development complying with all other relevant development plan policies.

The potential impact on highways safety and parking provision

- 44 The proposal would utilise the existing access to the site from Rye Lane. This arrangement would be wholly acceptable since the modest size of the development compared to the remainder of development across the site would not result in severe impacts on the highway network.

- 45 The level of parking proposed exceeds current parking standards. However, this level of provision has not been objected to by the County Highways Engineer in this instance.
- 46 The Highways Engineer has suggested that the parking be unallocated to alleviate the reported parking issues across the wider site. This is also a matter raised by the Parish Council and a number of the representations received.
- 47 However, the development has been carried out in accordance with the respective grant of planning permissions, each of which has been considered against current parking standards. Therefore, whilst it is acknowledged that there may be issues with parking across the wider development there is no lawful and planning requirement for this final phase to alleviate these issues.
- 48 Overall, the proposal would preserve highway safety and provide sufficient parking in accordance with our adopted development plan.

The potential impact on the character and appearance of the area

- 49 The architectural form and design of buildings seeks to reflect the design basis used across the rest of the site. In general, the architectural form of the proposed building has been based on traditional design using materials that reflect the Kent vernacular.
- 50 The building possesses pitched roofs which would be finished in either slate or clay tiles. Elevations would be finished in a variety of materials, including bricks and weatherboarding. The layout and scale of building also adds interest to the overall design. The block would be broken up through staggering the building and roof lines, and emphasising these variations through the use of the different material types.
- 51 The site coverage of the development is also in keeping with the wider development, with the site retaining ample space for a parking area and landscaping.
- 52 Overall, the development would sit comfortably within the setting of the wider development and would be in keeping with the street scene of Rye Lane. This is in compliance with the adopted policies of our development plan.

The potential impact on residential amenity

- 53 The proposed new homes and parking area would back onto the railway line. On the opposite side of the railway line are the dwellings and rear gardens to properties on Station Road.
- 54 There would be a separation distance of at least 60 metres between the existing dwellings on Station Road and the rear of the proposed building. In addition, the railway line acts as a visual barrier, being raised on an embankment, and screening exists on the embankment, albeit intermittent in places. Given the proposed relationship I consider it to be acceptable.

- 55 Opposite the application site to the east are homes already constructed as part of the wider development. These would front on to the application site across the street. The distance of separation across the street and the fact that the buildings would front on to one another would create a further acceptable relationship.
- 56 Finally, to the south of the site is a further building containing apartments. This existing building would be set back from the proposed development but would have the same orientation. I am therefore satisfied that the relationship formed would be entirely acceptable.
- 57 In terms of the future occupiers of the proposed development, each apartment would have a private balcony and some communal amenity space would be provided around the building. The wider site also benefits from 4 play spaces distributed evenly across the development.
- 58 The application has been submitted with an acoustic planning report which has identified that noise associated with vehicular traffic on Rye Lane and the railway line and would have an impact on the site unless mitigated against.
- 59 The applicants have outlined the mitigation which comprises standard double glazed window units to be fitted to the western elevation of the development, facing onto the railway line. To maintain acceptable internal noise levels, the windows would need to be fixed shut and so a mechanical ventilation system would be required to supply and extract air to rooms at the same rate as an open window. The report concludes that, subject to the above mitigation measures, internal noise levels for the homes would be acceptable.
- 60 Overall, I consider that the development would provide a suitable living environment for future occupiers. This would accord with our development plan.

Affordable housing provision

- 61 The proposal comprises the provision of 14 affordable units on the site, eight 1 bed homes and six 2 bed homes. This represents a 40% provision of the total 35 homes that form part of the development.
- 62 These units are to be secured by way of a legal agreement, the content of which is currently in the process of being agreed by our Solicitor.
- 63 Subject to this agreement being completed the development would comply with our development plan.

The potential impact on biodiversity

- 64 Natural England and the Kent County Biodiversity have raised no objection to the proposal subject to a reptile mitigation strategy, which can be required by way of condition on any grant of planning permission.
- 65 The development would therefore conserve biodiversity in accordance with our development plan.

Land drainage

- 66 The Environment Agency and Thames Water have raised no objection to the proposed drainage strategy for the site. The proposed foul and surface water drainage systems would therefore be acceptable in compliance with our development plan.

Contamination

- 67 The Environment Agency has raised no objection to the approach that the applicant has taken to the potential for contamination on the site. The proposal would therefore preserve the amenities of future occupiers of the development in accordance with our development plan.

The Community Infrastructure Levy (CIL)

- 68 This proposal is CIL liable and there is an application for exemption, which will be assessed under a separate CIL addendum report once the application has been considered by the Committee.

Sustainable development

- 69 In my opinion, the proposed scheme fully accords with the development plan, and I have explained this in detail above. It follows that the development is appropriate and there would be no adverse impacts in granting planning permission for the development.

Conclusion

- 70 The proposed development accords with our adopted development plan. It is therefore recommended that planning permission is granted subject to the completion of the required S106 agreement.

Background papers

Site and block plan.

Contact Officer(s): Mr M Holmes Extension: 7406

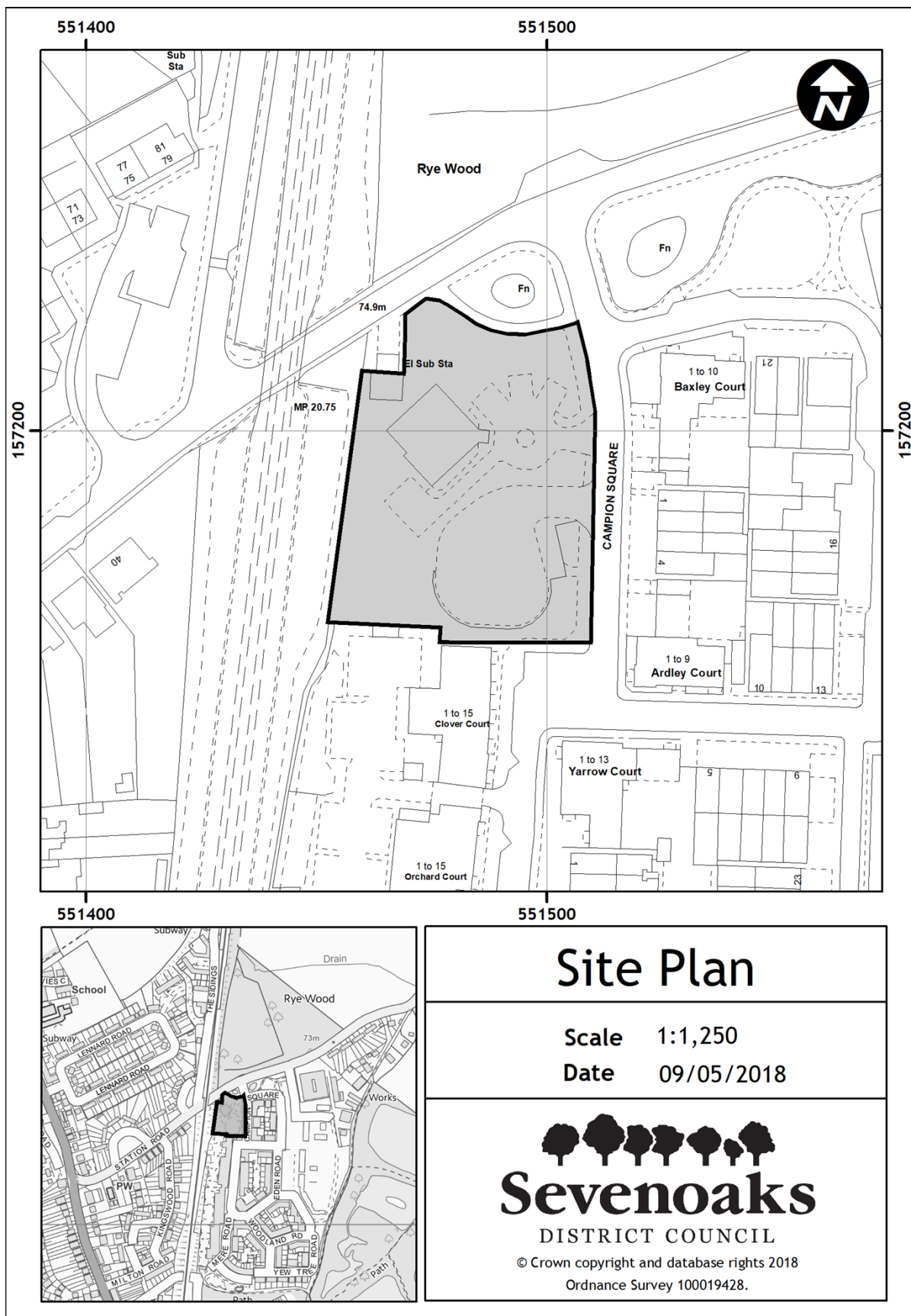
Richard Morris
Chief Planning Officer

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OZF3C4BKL2B00>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OZF3C4BKL2B00>



Block Plan

