

3.2 – SE/14/00905/HOUSE Date expired 21 May 2014

PROPOSAL: The erection of a single storey extension and insertion of an eyebrow window within the existing thatched roof.

LOCATION: Childs Cottage, Childsbridge Lane, Kemsing TN15 0BZ

WARD(S): Kemsing

ITEM FOR DECISION

This application is being referred to Development Control Committee at the request of Councillor Stack in order to debate the applicant's case for very special circumstances and whether it outweighs the harm to the Green Belt by reason of inappropriateness.

RECOMMENDATION: That planning permission be REFUSED for the following reasons:-

The land lies within the Green Belt where strict policies of restraint apply. The proposal would be inappropriate development harmful to the maintenance of the character of the Green Belt and to its openness as it will result in a disproportionate addition over and above the size of the original dwelling. The proposal would therefore be contrary to policy H14A of the Sevenoaks Local Plan and the National Planning Policy Framework.

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) 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 planning permission for the erection of a single storey extension and insertion of an eyebrow window within the existing thatched roof.
- 2 The application is a resubmission of SE/13/02637/HOUSE. The principle difference between the schemes is that an extension is now proposed in favour of a conservatory, and a case for very special circumstances has been advanced.

Description of Site

- 3 The site lies in the Green Belt on a site between the villages of Kemsing and Seal.
- 4 The site comprises a detached dwelling with existing first floor accommodation in the roof and a detached garage set within generous sized gardens. It lies adjacent to the west of Childsbridge Lane. The site is well landscaped with plenty of mature trees along the boundary of the site with the highway. The site itself is relatively level although it lies at a lower level than Childsbridge lane.
- 5 The existing cottage comprises a detached dwelling partly with a thatched pitched roof over and partly with a flat roof. It is assumed that the flat roof element is a later addition but the Council has no records to indicate when this part of the house was erected.
- 6 Planning permission was granted in 2009 reference SE/09/01694/FUL to extend the dwelling via the erection of a single storey side & rear extension and a first floor side extension to facilitate a loft conversion.
- 7 More recently, planning permission was refused reference SE/13/02637/HOUSE for the erection of a conservatory and insertion of an eyebrow window within the existing thatched roof.

Constraints

- 8 Green Belt

Policies

Sevenoaks District Local Plan (SDLP):

- 9 Policies - EN1, H6B, H14A, Appendix 4 Residential Extensions

Sevenoaks Core Strategy:

- 10 Policies - SP1, LO7, LO8

Allocations and Development Management Plan (Draft) (ADMP):

- 11 Policies - EN1, EN2, GB1

Other

- 11 Residential Extensions Supplementary Planning Document (RESPD) 2009
- 12 Following the recent examination of the emerging ADMP, policies contained within are in the final stages of preparation and can now be attributed some weight in decision taking. The relevance of these policies to the proposals and the degree of weight to be attributed to them are considered below. Limited weight is given to policies which may be subject of main modifications. Moderate weight can be given to those policies where there are objections but no main modifications are proposed. Significant weight is given to policies where there are no objections and no modifications are proposed.
- 13 Emerging policies EN1, EN2 and GB1 of the ADMP are relevant to the assessment of this planning application. The table below identifies the weight to be given to each of these policies in the assessment of the planning application.

ADMP Policy	Policy Title	Weight
EN1	Design Principles	Moderate
EN2	Amenity Protection	Moderate
GB1	Limited Extensions to Dwellings in the Green Belt	Moderate

- 14 Emerging policy EN1 of the ADMP will in part replace adopted policy EN1 (Development Control: General Principles) of the Local Plan. Emerging policy EN1 requires high quality design and lists a number of criteria against which proposed development will be considered, including requiring the layout of proposed development to respect the topography and character of the site and the surrounding area and requirement for landscaping and good levels of accessibility.
- 15 Emerging policy EN2 of the ADMP will also in part replace adopted policy EN1 of the Local Plan. Emerging policy EN2 seeks to safeguard the amenities of existing and future occupants of nearby properties, including from excessive noise, activity or vehicle movements.
- 16 Emerging policy GB1 of the ADMP will in part replace policy H14A of the Local Plan. Emerging policy GB1 is similar to adopted policy H14A in that amongst other things it seeks to restrict extensions to dwellings which are lawful and permanent in nature, seeks appropriate design and seeks to ensure that the amount of floor space added to dwellings in the Green Belt does not exceed 50% of the floor area of the original dwelling.
- 17 National Planning Policy Framework (NPPF)
- 18 National Planning Practice Guidance (NPPG)

Planning History

19	86/00600/HIST	DEMOLITION OF EXISTING GARAGE AND SHEDS AND ERECTION OF DOUBLE GARAGE	Grant. 20/05/1986
	09/01694/FUL	Erection of a single storey side & rear extension and a second storey side extension to facilitate loft conversion	Grant. 24/09/2009
	13/02637/HOUSE	Erection of a conservatory and insertion of an eyebrow window within the existing thatched roof.	Refuse. 06/11/2013

Consultations

Kemsing Parish Council

20 Kemsing Parish Council recommends approval.

Representations

21 No representations have been received.

Chief Planning Officer's Appraisal

Principal Issues

22 The main issue is whether the proposal would involve inappropriate development in the Green Belt and, if so whether the harm to the Green Belt would be clearly outweighed by other considerations.

23 The remaining issues to consider are:

- Design and Visual Impact; and
- Impact on Amenity;

Green Belt

24 Having regard to the Green Belt, inappropriate development, by definition, is development that is harmful to the Green Belt. Government advice contained within the NPPF makes clear that the most important attribute of Green Belts is their openness.

25 It is for applicants to demonstrate why permission should be granted. Very special circumstances to justify inappropriate development 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.

26 Having regard to inappropriate development in the Green Belt, paragraph 89 of the NPPF, states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include:

“the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building”;

27 Having regard to the above criterion, the application is a householder application for works and extensions to a dwelling house, the proposal would therefore fall to be considered against the above criterion. With this in mind policy H14A of the SDLP sets out the criterion against which applications for extensions to dwellings in the Green Belt need to be assessed.

28 It should be noted that the term ‘*disproportionate addition*’ is not empirically defined in national policy. This means that the key comparison is between the ‘original’ dwelling and the dwelling in its extended form. The ‘50%’ test referred to in criteria 2 and 6 of Local Plan policy H14A, provides guidance on how the Council will assess whether an extension is a disproportionate addition, stating that the ‘gross floor area’ of the existing dwelling plus the ‘gross floor area’ of the extension shall not exceed the ‘gross floor area’ of the ‘original’ dwelling by more than 50%. However, in assessing the impact on openness, site coverage is only one of the relevant considerations, the scale, height, bulk and massing of the extension will also be an important consideration in assessing the impact the extended dwelling has on the Green Belt.

For the purposes of Policy H14A “gross floor area” of the “original” dwelling will be ascertained by external measurement and shall include any garage or domestic outbuilding (incidental to the enjoyment of the dwelling) within the curtilage of the dwelling, if any part of that building lies within 5m of any part of the dwelling. All habitable floor space of the building will be included which is useable without major reconstruction.

29 There is a domestic outbuilding within the curtilage, however, it is located in excess of 5 metres from the dwelling and is not original.

30 The term ‘original’ is also defined in policy H14A as being *“The dwelling and domestic outbuildings as existing on 1st July 1948; or if no dwelling existed on that date, then “original” means the dwelling as first built after 1st July 1948, i.e. excluding in either case any extensions or outbuildings built after 1st July 1948 or first completion”.*

31 An extensive search of the planning history has been carried out.

32 As stated previously, it is assumed that the flat roof addition (as it existed prior to being extended in accordance with the 2009 permission) is a later addition to the dwelling but the Council has no records to indicate when this part of the house was erected. I am not convinced that the flat roof addition (as it existed prior to being extended in accordance with the 2009 permission) is original. However, in determining both the 2009 application and the 2013 application this area was included as original floor space. In the interest of consistency and in the absence of any evidence to the contrary I will therefore also treat this area as original.

33 Based on the evidence available at this time, it is my view that the original gross floor area of Childs Cottage amounts to approximately 103m² which concurs with the previous officer. This gives a 50% limit to extend of 51.5m².

34 The planning history indicates that a replacement garage has been provided and that the dwelling has been extended under application reference

SE/09/01694/FUL to create an enlarged ground floor and to facilitate a loft conversion.

- 35 No evidence has been provided to demonstrate that the loft space to the original dwelling provided habitable floor space. Furthermore, the planning history indicates that no means of access existed to the loft space until planning permission was received in 2009, which included an extension to the side of the dwelling within which a new staircase and additional accommodation in the roof was provided.
- 36 With regards to the 2009 planning permission, by my calculations this created an additional 36m² at ground floor and an additional 20.4m² at first floor within the extended thatched roof. Based on the information submitted the currently proposed extension would result in the addition of a further 18.95m² at ground floor. No additional first floor space would be created as a result of the construction of the new eyebrow window within the roof, although it does result in a limited increase in the bulk of the building at first floor level.
- 37 The table below is provided in order to clarify, the current position in terms of the floor area of the dwelling in its current form, and in its proposed form.

	Floor Area (m ²)	Total Extended Floor Area (m ²)	Cumulative % Increase above Original Dwelling
Original Dwelling	103		
2009 Extensions	56.4	159.4	54.76
Proposed Extension	18.95	178.35	73.16

- 38 Therefore, at present, and as demonstrated in the table above, extensions to the dwelling in both their existing and proposed form would exceed 50% of the total gross floor area of the original dwelling. It is therefore my view that the proposal would result in disproportionate additions to the original dwelling and the proposal is therefore regarded as inappropriate development in the Green Belt contrary to policy H14A and the National Planning Policy Framework which by definition is harmful to its openness.

Extent of Harm

- 39 In light of the above, it follows that the proposed extension at ground floor would further increase the harm to the Green Belt by reason of inappropriate development and would result in an increase in the gross floor area that would be more than the 50% limit referred to as guidance in criterion (2) of policy H14A.
- 40 The NPPF confirms that the most important aspect of Green Belts is their openness and the fundamental aim of Green Belt Policy is to maintain this. It states that the open character must be maintained as far as can be seen ahead.

- 41 It should be noted that openness is not reliant upon degree of visibility but upon an absence of built development. Openness can be diminished by the cumulative “footprint” of discreetly sited incremental additions to existing individual buildings as much as it can by conspicuous swathes of new development.
- 42 As is evident from the calculations set out above, the proposed extensions to the dwelling clearly represent an increase in overall scale and consequently bulk and massing in comparison to the ‘original’ dwelling to a degree which would further erode the openness of the site and the Green Belt.
- 43 It is my view that extensions to the dwelling are already disproportionate and that any further extensions to the dwelling would only serve to compound this issue resulting in additional harm and further inappropriate development in the Green Belt.
- 44 The applicants have advanced a case for very special circumstances which they consider would clearly outweigh such harm, which is discussed later in the report.

Design and Visual Impact

- 45 The NPPF states that the Government ‘attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.’ (para. 56).
- 46 Policies SP1 of the Core Strategy and Policy EN1 of the Local Plan indicates that “all new development should be designed to a high quality and respond to the distinctive local character of the area in which it is situated.....” and that ‘the form of the proposed development ... should be compatible in terms of scale height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard’.
- 47 Policy LO8 of the Core Strategy requires development to respect the countryside by having no detrimental impact upon the quality of the landscape character.
- 48 Policy H6B of the SDLP states that residential extensions shall be subject to the principals in set out in Appendix 4.
- 49 Regard should also be had to the Councils Residential Extensions Supplementary Planning Document (RESPD).
- 50 The extension would appear subservient. The extension would have a flat roof. Although the Council generally seek to resist flat roof extensions, the property already has a large flat roof addition to the rear and the proposed extension is relatively modest in form and scale in comparison to the size of the existing dwelling on site. Furthermore, the extension is proposed to be located to the side of the property where, for the most part, it will be screened from the road and wider locality by existing planting.
- 51 In my view, due to its relatively modest proportions the proposal would not be out of scale and the existing design is satisfactory when viewed in context with the shape and style of the existing dwelling.

- 52 As it will be screened for the most part the extended property would not create any inconsistency along this part of Childsbridge Lane and therefore the proposal would not have any unacceptable impact on the street scene. The property will retain a large amount of garden space and consequently, there are no concerns relating to density or site coverage.
- 53 The proposed eyebrow window located in the front facing roof slope would appear modest in relation to the roof in which it would be positioned and the fenestration would match the existing in terms of its detailing and design, as a result the window would not dominate the roof in a way which would harm the integrity of the design of the original thatched cottage.
- 54 The proposed materials would reflect those used in the construction of the existing dwelling and are therefore appropriate.
- 55 Overall there is no design, or visual impact reasons to add to the Green Belt objection.

Impact on Neighbouring Amenity

- 56 Paragraph 17 of the NPPF identifies a set of core land-use planning principles that should underpin decision-taking. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 57 Policies EN1 and H6B of the Sevenoaks District Local Plan require that any proposed development should not have an adverse impact on the amenities of neighbours and also ensures a satisfactory environment for future occupants.
- 58 The closest neighbour to the property is Childsbridge Cottage located to the west of the site. At approximately 18 metres away, this property is considered to be at a sufficient distance from the site to prevent any adverse impact upon amenity by reason of privacy, form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements.
- 59 No other properties are considered to be adversely affected by the proposal.

Very Special Circumstances

- 60 The applicant's case for very special circumstances is copied below:
1. *The NPPF does not define what a 'disproportionate addition' to the original dwelling might be, it is important to consider the implications of any previous additions for the openness of the Green Belt. Here, the previous extension, in 2009, included the provision of additional habitable space within the roof, amounting to 20.4 square metres. That 'additional' space had no bearing on the openness of the Green Belt and should be discounted from any calculation of additional scale that might impact on the Green Belt. If the total extensions, including that now proposed, is reduced by the 20.4 square metres previously included, the total addition is just under 53% (2.81 square metres) which is not a material departure from policy H14 guidance. On that analysis, the increase is not disproportionate and the proposal not, therefore, inappropriate development.*

2. *Without prejudice to the opinion that the proposal is not inappropriate, very special circumstances exist in any case. These are that the additional space beyond the policy H14 'limit' is too small to have a material impact on openness, and that permitted development rights would allow a much larger extension. The grant of permission now would enable those rights to be withdrawn by condition.*
3. *Permitted development rights would allow the north side elevation to be extended by up to half the width of the original house, with a maximum height of 4.0 metres. Such a structure would be significantly larger and bulkier than the extension now proposed. This potential fall-back position is a material consideration and represents very special circumstances.*

61 In response, firstly, as stated in the preceding paragraphs whilst it is acknowledged that the term '*disproportionate addition*' is not empirically defined in national policy the '50%' test referred to in criterion 2 and 6 of adopted Local Plan policy H14A, provides guidance on how the Council will assess whether an extension is a disproportionate addition. Furthermore, this test is also referred to in emerging policy GB1 of the ADMP which has recently been examined by an Inspector and can be afforded moderate weight in decision taking. Consequently, the Council's view is that extensions exceeding the 'gross floor area of the 'original' dwelling by more than 50% will be regarded as disproportionate.

62 It is argued that the 20.4m² of additional accommodation in the roof had no bearing on the openness of the Green Belt, however, I disagree with this statement. As stated in the preceding paragraphs in assessing the impact on openness, site coverage is only one of the relevant considerations, the scale, height, bulk and massing of the extension will also be an important consideration in assessing the impact the extended dwelling has on the Green Belt. As this additional accommodation was provided within the roof of a new proposed extension occupying a part of the site which would have previously been open and devoid of any three dimensional bulk, in my view, it is entirely reasonable that the habitable floor space created within both the ground and first floor of the extension be counted towards the 50% and determined as diminishing the openness.

63 Should an alternative view be taken, even if the additional 20.4m² were deducted from the calculations then as acknowledged by the applicant's agent, extensions to the dwelling would still exceed 50% of the floor area of the original dwelling. By my calculations extensions to the dwelling would still amount to 53.35%. I do not consider this is immaterial. In my view this results in additional built form and consequently additional scale, bulk and massing over and above what the Council considers to be acceptable in the Green Belt and therefore represents inappropriate development which by definition is harmful to the openness.

64 The applicant has also advanced a permitted development 'fallback' position as very special circumstances to justify allowing this scheme. We are advised that the applicant is a builder, and with such a large plot there is a high likelihood that he will seek to maximise the size of his house.

65 The fallback position indicates that an extension could be constructed on the opposite side of the dwelling to the extension currently proposed and has been illustrated on drawing number CC/2013/03. The applicant's agent states that permitted development rights would allow the north side elevation to be extended

by up to half the width of the original house, with a maximum height of 4.0 metres. Part (h(iii)) of Class A of Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 indicates that extensions that would extend beyond a wall forming a side elevation of the original dwelling house, and would have a width greater than half the width of the original dwelling house are not permitted. The fallback extension would extend beyond a wall forming a side elevation of the original dwelling house. The planning history indicates that the width of the original dwelling house was approximately 10.6 metres. Combined with the existing side extension permitted in 2009 which is approximately 3 metres in width, the fallback extension as shown on drawing number CC/2013/03 would exceed half the width of the original dwelling house. It would not therefore constitute permitted development. As such, although it may be possible to erect a further extension to the opposite side under permitted development it is unlikely that an extension of the size, and consequently scale and bulk, of that indicated as a fallback situation could be achieved.

- 66 In addition to the above, in determining the weight the fallback scheme should be given, it is relevant to consider whether there is a real prospect of it being built. The submitted floor plans indicate that the fallback situation would extend off of existing bedrooms. There is no evidence submitted with the application to indicate how the fallback situation would relate to the existing internal layout in terms of the use of the potential additional space. Certainly the extension could provide larger bedrooms but it appears from the submitted floor plans that it would be unlikely to provide any additional living space without reconfiguring the existing ground floor layout. As such, it is difficult to conclude quite how realistic a proposal the fallback situation is.
- 67 As indicated in the preceding paragraph, advice regarding the fallback position is that the weight to be given to such development depends on the reasonable likelihood of any fallback being exercised, and that the test should be made on the balance of 'probability' rather than the balance of 'possibility'. Given the lack of detail in respect of the fallback position which actually demonstrates a situation which would make a perceivable difference to the living space available to this dwelling and which would result in greater harm to the Green Belt, in my view, the applicants case in this respect does not convince as a fallback situation that on the balance of probability would take place: rather, it appears as a worst case scenario to persuade the Council to permit otherwise inappropriate development. I therefore attached limited weight as a consideration in favour of the scheme.
- 68 In conclusion, for the reasons set out above, I do not consider that the applicants have advanced a case which would constitute the very special circumstances required to clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm.

Other Matters

- 69 Part of the garden of the property is located in a designated Flood Zone 3. It appears from the information submitted that the proposed extension may just encroach into this area.
- 70 If the application were successful, I would suggest a condition be imposed to ensure that the extension is built in accordance with the guidelines contained in the Environment Agency's standing advice.

Conclusion

- 71 The proposed development is considered to be inappropriate in the Green Belt as it would result in extensions to the dwelling further exceeding the 50% floor area of the original dwelling generally considered acceptable. The proposed extension together with existing extensions to the dwelling are therefore considered to be disproportionate additions contrary to both local plan policy H14A and the NPPF.
- 72 The fallback scheme put forward is unlikely to be able to be constructed under permitted development as indicated and in my view the applicants have failed to demonstrate a likely fallback situation which would make a perceivable difference to the living space available to this dwelling and which would result in greater harm to the Green Belt. Therefore, the fallback scheme put forward does not convince as a fallback situation that on the balance of probability would take place: Whilst possible to carry out utilising the permitted development rights, in this instance it appears to have been used as a bargaining tool rather than a realistic proposition. As such, there are considered to be no very special circumstances that clearly outweigh the harm to the Green Belt.
- 73 The scale, location and design of the extension would respect the context of the site and preserve the visual amenities of the locality.
- 74 The development would not have an unacceptable impact on the residential amenities of nearby dwellings.

Background Papers

Site and Block plans

Contact Officer(s): Claire Baldwin Extension: 7367

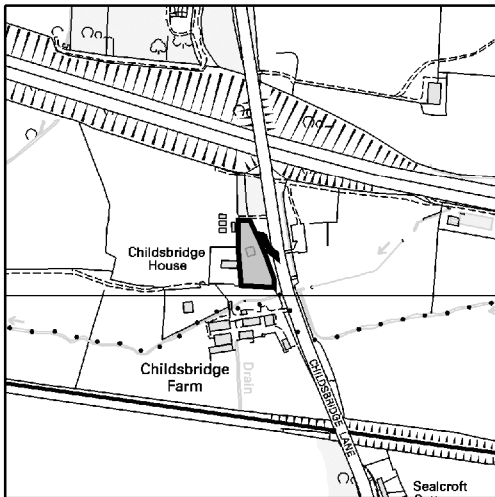
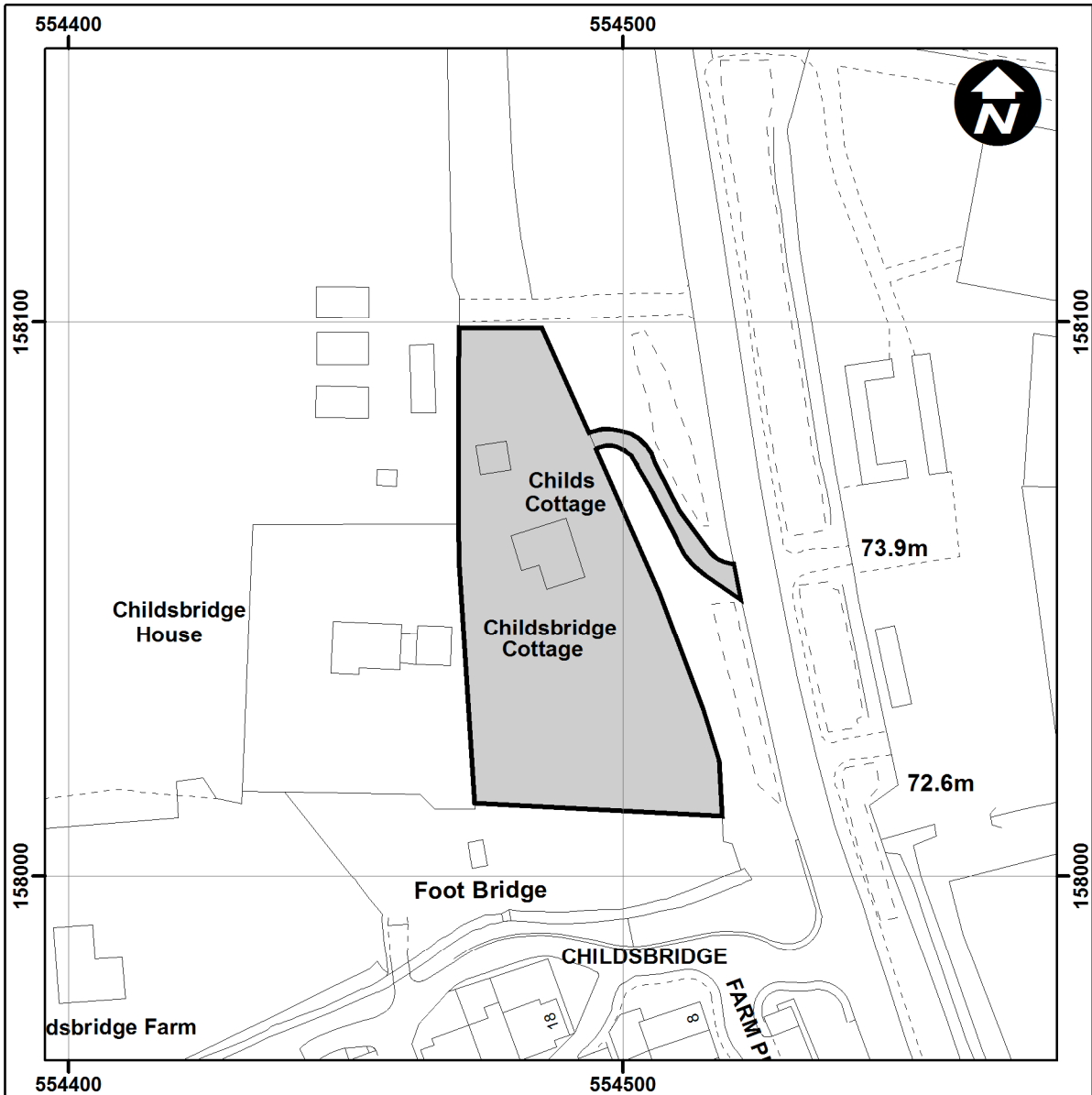
Richard Morris
Chief Planning Officer

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=N31A9MBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=N31A9MBK8V000>



Site Plan

Scale 1:1,250

Date 30/06/2014



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Block Plan

