

4.2 - SE/14/02811/FUL Date expired 14 November 2014

PROPOSAL: Part demolition of front boundary wall to allow access to new garage and the sub division of the land and building of a new residence.

LOCATION: 96 Oakhill Road, Sevenoaks TN13 1NU

WARD(S): Sevenoaks Kippington

### **ITEM FOR DECISION**

Councillor Hunter has referred the application to Development Control Committee on the basis of concerns about a cramped development out of keeping with the area and the Conservation Area

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

1) The development hereby permitted shall be begun before the expiration of 3 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: 13-12-P01, 13-12-P03, 13-12-P04, 13-12-P05

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

3) No development shall be carried out on the land until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Council. 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 locality as supported by Policy EN1 of the Sevenoaks District Local Plan.

4) No extension or external alterations shall be carried out to the dwelling hereby approved, despite the provisions of any Development Order.

To safeguard the character and appearance of the conservation area as supported by EN23 of the Sevenoaks District Local Plan.

5) No development shall take place until details of all proposed engineering works including:

- existing and proposed levels;
- the proposed extent of any cut and fill;
- existing and proposed site sections;
- the method of construction and drainage; and
- details of the import or export of any soil have been submitted to and approved in writing by the Council.

The works shall be carried out in their entirety and in accordance with the approved

details before the land is first brought into use for the development here permitted.

To safeguard the visual appearance of the area as supported by EN1 and EN23 of the Sevenoaks District Local Plan.

- 6) The development shall achieve a Code for Sustainable homes minimum rating of level 3. Evidence shall be provided to the Local Authority -
- i) Prior to the commencement of development, of how it is intended the development will achieve a Code for Sustainable Homes Design Certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority; and
  - ii) Prior to the occupation of the development, that the development has achieved a Code for Sustainable Homes post construction certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority.

In the interests of sustainable construction as supported by policy SP2 of the Core Strategy.

- 7) No development shall be carried out on the land until full details of soft landscape works have been submitted to and approved in writing by the Council. 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); and-a programme of implementation. The details shall be implemented in accordance with the programme of implementation and retained thereafter.

To protect the visual appearance of the area as supported by EN1 and EN23 of the Sevenoaks District Local Plan.

- 8) If within a period of 5 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 protect the visual appearance of the area as supported by EN1 and EN23 of the Sevenoaks District Local Plan.

- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: the parking of vehicles of site operatives and visitors loading and unloading of plant and materials storage of plant and materials used in constructing the development the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate wheel washing facilities measures to control the emission of dust and dirt during construction a scheme for recycling/disposing of waste resulting from demolition and construction works

In the interests of amenity

- 10) Full details of the proposed foul and surface water drainage systems shall be submitted to and approved in writing by the Council. Any approved scheme shall be completed to the written satisfaction of the Council prior to the occupation of the development.

To ensure the development site and other land does not suffer an unacceptable or

increased risk of flooding and/or pollution and to ensure that sustainability and environmental objectives are met.

### **Informatives**

1) Please note that within six months of completing the home, the applicant must submit additional supporting evidence to confirm that the project is self build, being:

- A Self Build Exemption Claim Form - Part 2 (available on the Planning Portal website);
- The supporting evidence as set out in the form, to confirm that the levy exemption should be upheld.

If the evidence is not submitted to the Council within the 6 month time period, the full levy charge becomes payable.

2) Please note that in accordance with the information on your Self Build Exemption Claim Form Part 1 and the requirements of The Community Infrastructure Levy Regulations 2010 (as amended) you MUST submit a COMMENCEMENT NOTICE to the Council BEFORE starting work on site. Failure to do so will result in the CIL charge becoming payable in full.

### **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](http://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 that led to improvements to the acceptability of the proposal.

#### Description of Proposal

- 1 Part demolition of front boundary wall to allow access to new garage, and the sub division of the land and building of a new residence. The development would be partly submerged with much of the new building below grounds level.

#### Description of Site

- 2 The application site is located within the Urban Confines of Sevenoaks and within the Kippington Road Conservation Area. The site is on the Western side of Oakhill Road opposite the Kippington Meadow recreation ground. The site slopes upwards from the street and contains a two storey detached dwelling with a detached garage set to the side at the front of the site and extensive gardens to the side and rear.

#### Constraints

- 3 Kippington Road Conservation Area

#### Policies

##### *Sevenoaks District Local Plan*

- 4 Policies – EN1, EN23, VP1

##### *Sevenoaks Core Strategy*

- 5 Policies – LO1, SP1, SP2, SP3

##### *ADMP –*

- 6 Policies - EN1, EN2, EN4, SC1

##### *Other*

- 7 The Kippington Conservation Area Appraisal and Management Plan

#### Relevant Planning History

- 8 12/01402/FUL - Erection of dwelling. Provision of new parking and garaging to serve existing residence to include part demolition of existing boundary wall to allow access to new parking area. Dismissed at appeal

#### Consultations

##### *Sevenoaks Town Council*

- 9 ‘Sevenoaks Town Council recommended refusal on the following grounds:

1. *The proposal represents a cramped form of development which will result in a lack of amenity for future occupants including insufficient outside space and lighting*
2. *Overdevelopment of the site*
3. *The proposal is out of keeping with the character of the conservation area due to the insufficient outdoor amenity space'*

#### *SDC Arboricultural*

- 10 SDC Arboricultural officer has advised:

*'A number of trees exist on the site and because of the nature of the development, all will be lost to the necessary excavation works. The trees on the land to the south of the main house are mainly mature Conifers of limited quality. None of these trees are of TPO quality and as such I offer no objections to this proposal. I suggest that a landscaping condition should be applied to any consent provided.'*

#### *KCC Highways*

- 11 Kent Highways have advised:

*'Thank you for consulting with us. I confirm that there do not appear to be any significant highway safety issues and that I have no objection to the proposals.'*

#### *Thames Water*

- 12 Thames Water have advised:

*'Waste Comments*

- 13 *Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at [www.thameswater.co.uk](http://www.thameswater.co.uk)*

- 14 *Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.*

- 15 *Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.*

*Water Comments*

- 16 *With regard to water supply, this comes within the area covered by the South East Water Company. For your information the address to write to is - South East Water Company, 3 Church Road, Haywards Heath, West Sussex. RH16 3NY. Tel: 01444-448200'*

Representations

- 17 15 notifications of objection have been received which raise the following comments:
- Development of the garden area is not appropriate and would erode the appearance of the conservation area
  - The proposal represents overdevelopment in a cramped space.
  - The principle of a dwelling on the site is unacceptable. There is no reason why the piece of land should be developed – contrary to the protection of garden land in the NPPF.
  - The proposal would not enhance the appearance of the conservation area and is contrary to the guidance contained within the Conservation Area Appraisal.
  - The retaining walls would be visible from the road and would detract from the character and appearance of the area.
  - It would destroy the open landscaped appearance of the area and would increase prominence and scale of development in the area.
  - The development is contrary to the previous appeal decision.
  - The loss of trees on the site is unacceptable.
  - The changing levels of the site are so fundamental that the character of the site and the surrounding area will be destroyed.
  - The proposal would result in unacceptable living conditions for occupiers of the development.
  - The proposal would result in an increase in traffic in the road
  - Inadequate visitor parking
  - The excavation work would negatively impact on the neighbouring plot.
  - Development works would be dangerous on the road
  - The proposal could result in an increase of surface water flooding

**Chief Planning Officer's Appraisal**

- 18 Permission is sought for the subdivision of the 96 Oakhill Road plot retaining approximately 0.47 acres for the existing residence and 0.23 acres for a new dwelling. The new plot would sit between the two existing properties of 96 and 100 Oakhill Road.

- 19 The proposal has been designed following dismissal of an appeal for a 2 storey dwelling on the site. It shows the reuse of the existing parking and garaging for the new residence along with the provision of new submerged parking and garaging for the existing property. Both are shown as being accessed from the same point, with a small section of the front wall removed to facilitate this. The new garaging for 96 Oakhill Road is hidden below ground floor level in front of the host dwelling and accessed from the slightly widened existing access. The parking for the new dwelling would be provided in the existing garage which is shown as refurbished
- 20 The property is shown as substantially designed below ground level. The site slopes at an approximate gradient of 1:4 and the proposed dwelling is shown as buried into the existing slope to hide the majority of it from public view. The walls which would be visible are shown as constructed of ragstone.
- 21 From the streetscene, the elements of the proposal that would be visible are a glazed atrium which would be set back approximately 30m from the front boundary and would stand 2m in height, along with the dining room window and a retaining ragstone wall of 1.5m in height. Some glazed panels are shown as set flush into the ground although these would largely be shielded by the existing garage. 1.5m high gates would stand adjacent to the existing garage. Behind these would be the passageway to the submerged entrance of the house
- 22 At the rear of the house, a garden area is shown as excavated into the slope of the land. Rooflights are laid flush into the land throughout the extent of the dwelling.
- 23 A number of trees are to be removed. The first are a group of conifers adjacent to the existing garage. To the rear of the garage are two recently planted beech trees, and further up the slope away from the road frontage is another group of conifers. It is proposed to replace these trees with appropriate new native trees and shrubs.
- 24 A 1m post and rail fence is proposed between the host dwelling and the application site.
- 25 The main issues for consideration are:
- Principle of development
  - Appearance and impact on the conservation area.
  - Impact on neighbouring amenity
  - Affordable housing
  - Other matters
  - CIL

#### Principle of Development

- 26 Policy LO1 of the Core Strategy states that development will be focussed within the built confines of existing settlements. Sevenoaks urban area is identified as one of the principal areas for focus for development in the District. As such, the location is an acceptable site in principle for residential development.

- 27 Policy SC1 of ADMP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The Council will work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with policies in the LDF will be approved without delay unless material planning considerations indicate otherwise.
- 28 Paragraph 14 of the NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 29 Paragraph 53 of the NPPF states that *'Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.'*
- 30 The Council does not have a policy which resists the development of residential gardens. Instead, it is considered sufficient to rely on an assessment of development on the basis of its location – within the urban confines - and its context – whether it accords with the criteria in other policies relating to appearance and impact. As such, the location of the development on current garden land is not considered objectionable for that reason alone. Subject to an assessment and compliance with other planning policies relating to appearance and impact, the presumption should be in favour of this development due to the sustainable location within the urban confines of Sevenoaks.

#### Appearance and Impact on the Conservation Area

- 31 Policy EN1 of the Local Plan contains a number of criteria including that all forms of development are 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. The layout of proposed development should respect the topography of the site and retain important features such as trees. The design of new buildings should incorporate measures to deter crime.
- 32 Policy EN23 of the Local Plan states that proposals for development or redevelopment within or affecting conservation areas should be of positive architectural benefit by paying special attention to the desirability of preserving or enhancing the character or appearance of the area and its setting
- 33 Policy SP1 of Core Strategy states that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated. In areas where the local environment lacks positive features, new development should contribute to an improvement in the quality of the environment. The Districts heritage assets and their settings will be protected and enhanced.
- 34 Policy EN1 of ADMP states that proposals which would create high quality design will be permitted subject to a number of design criteria including that the form of the development should respond to the scale, height, materials and site coverage of the area; the layout of the proposal would respect the topography and character of the site; the proposal would not result in the loss of open spaces that



would have an unacceptable impact on the character of the area; the design of new buildings should be permeable and provide connectivity with neighbouring areas; and would create a safe and secure environment.

- 35 Policy EN4 of ADMP states that proposals which affect a heritage asset or its setting will be permitted where the development conserves or enhances the character, appearance and setting of the asset, Applications will be assessed with reference to the historic and/or architectural significance of the asset, the prominence of its location and setting, and the historic and/or architectural significance of any elements to be lost or replaced.
- 36 Paragraph 57 of the NPPF states that *'it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes'*
- 37 Paragraph 60 of the NPPF states that *'planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.'*
- 38 Paragraph 63 states that *'in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.'*
- 39 The Planning (Conservation Area and Listed Building) Act 1990 requires special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 40 The Kippington Conservation Area Appraisal and Management Plan states:
- 'Landscape is crucially important in the Kippington Conservation Area. The entire area undulates spectacularly and distant views are often therefore crucial...*
- Trees and open space contribute strongly to the special character of The Kippington*
- Conservation Area. The trees and hedges throughout the Area are integral to the special interest.*
- Retaining mature trees and hedges is fundamental to preserving this character. Trees in conservation areas are protected and their removal will only be permitted where a clear case exists...*
- ...Oakhill Road meanders up a gentle rise from north to south. Like Kippington Road, it is a long road, although with fewer roadside trees. It is pleasantly undulating with interesting curves and good hedgerows. The feeling of enclosure is strong despite its extra width.*
- The area around the Recreation Ground (see below) is particularly noteworthy. This open area undulates in a very attractive way. As with all sub areas, Oakhill Road has an abundance of tree cover and many attractive long views.'*

- 41 The proposal, by its very nature as an almost entirely subterranean development, would have very little impact on the appearance of the conservation area by reason of height, bulk, mass or scale. The development takes advantage of the natural steep slope of the site to accommodate the development beneath ground. The only elements that would protrude above ground and be visible from the streetscene and neighbouring plots would be the atrium, a retaining wall and a window as detailed above. The entrance gates would also be visible to the side and set back slightly from the existing garage. Glazing and rooflights are shown as set flush to the ground and as such would not be readily visible.
- 42 The above ground elements of the development would be set a significant distance away from the front boundary of the site. Although previously a two storey dwelling was considered to have a detrimental impact on the character and appearance of the conservation and the streetscene, this development would have an entirely different impact with a very small element of building works visible. The diminutive scale of the above ground works, along with the distance from the streetscene would ensure that the site would appear within the wider conservation area as a largely undeveloped and open, verdant plot.
- 43 The proposal would represent an innovative design solution to the development of the plot, which overcomes the previous concerns raised about scale and prominence of above-ground development of the site. It would be a high quality individual development which still respects local distinctiveness.
- 44 The Arboricultural Officer is satisfied with the loss of trees that are considered to be of a limited quality. Retention of existing landscaping and the provision of new landscaping can be conditioned by condition.
- 45 The use of the existing garage for the new development along with the new submerged garage which would utilise the existing access and only result in the removal of a small section of the front wall, would have a very limited impact on the appearance of the site and would maintain the verdant, undulating landscape as considered important in the Conservation Area Appraisal. Only a very small section of the end of the wall would be removed. The element removed sits adjacent to the open parking and garage area and so the visual impact would be minimal and is considered acceptable.
- 46 The proposal would respect and protect the character of the area and the setting of the site and its topography. It would be a high quality development that through its limited visibility would harmonise with the locality. The proposal would preserve the character of the conservation area.

#### Impact on neighbouring amenity

- 47 Policy EN1 of Local Plan states that proposed development should not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements.
- 48 Policy EN2 of ADMP states that proposals will be permitted where they would provide adequate residential amenities for existing and future occupiers of the development and would safeguard the amenities of existing and future occupants of nearby properties by ensuring that the development does not result in excessive noise, vibration, odour, air pollution, activity or vehicle movements, overlooking or visual intrusion and where the built form would not result in an

unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

- 49 This proposal would have a minimal impact on neighbouring amenity as there would be no potential for overlooking and no significant increase in bulk on the site. The proposal would not have a detrimental impact on the amenity of adjoining occupiers.

#### Affordable Housing

- 50 Policy SP3 of the Core Strategy states that in residential development of less than 5 units that involve a net gain in the number of units, a financial contribution based on the equivalent of 10% affordable housing will be required towards improving affordable housing off site.
- 51 A legal agreement which makes a full contribution in accordance with policy SP3 has been completed and accompanies the application.

#### Other matters

##### *Sustainable construction*

- 52 Policy SP2 of the Core Strategy states that the District will contribute to reducing the causes and effects of climate change by promoting best practice in sustainable design and construction to improve the energy and water efficiency of all new development. New homes would be required to achieve at least level 3 of the code for sustainable homes. This can be dealt with by condition.

##### *Flooding*

- 53 One comment of objection has raised concern about increased surface water flooding from the development. The site does not fall with a designated flood zone and as such, no assessment of the flooding implication of the proposal is required. However, given the subterranean nature of the development, it would be appropriate to condition surface water runoff from the development to ensure that it is dealt with in an adequate manner

##### *Construction works*

- 54 Concerns have been raised about the impact of construction works on the road and also about additional civil consents required. Other consents are a separate matter from consideration of the planning merits of the scheme. These remain the responsibility of the landowner / developer. Given the location of the site on a road and adjacent to residential dwellings, it would be reasonable to impose a condition to require a development method statement to ensure adequate parking, hours of operation and storage of materials during the construction period.

##### *Highway Impact*

- 55 Concerns have been raised during the consultation period about inadequate visitor parking and an increase in traffic as a result of the development. Kent Highway Services have raised no concern with the parking arrangements or the impact on the road in terms of increased traffic.

### *Living conditions of future occupiers*

- 56 Although the development is located underground, a number of light sources would ensure that the living conditions of future occupiers of the development would be acceptable. The ground floor would benefit from a number of rooflights and atrium glazing which would be set into the ground level / roof. The first floor would be glazed through the glazed atrium, a rooflight, and the exposed dining room window at the front of the proposal, and lounge/study doors on to the garden at the rear. These lighting sources would enable the development to be sufficiently lit and ensure a satisfactory living condition for future occupiers of the scheme.
- 57 The garden that is dug into the rear of the site would be smaller than others in the locality. However it would provide an acceptable level of amenity space for the dwelling, and its size and appearance would accord with the unusual design of the dwelling. In addition to this, the rest of the subdivided land could still be used as amenity space (as is its current use) in connection with the dwelling. Therefore, the dwelling would benefit from a sufficient level of garden.

### *Previous appeal decision*

- 58 A number of consultation responses have been received which make reference to the previous appeal decision. Permission was refused and dismissed at appeal for the erection of a two storey dwelling on the site. The Inspector dismissed the appeal on the basis that the development would detract from the existing appearance of the property and would increase the prominence and scale of development in this area to the detriment of its existing character. He found that although it would *not* appear as a cramped form of development on the plot, it would reduce the landscape setting of the two neighbouring properties. He considered the dominance of landscaping and the generally open setting of properties to be very important to the conservation area and that the proposal would not enhance or preserve the character or appearance of the conservation area.
- 59 He found that the proposal would significantly increase the amount of development at the expense of the openness of this particular area and that this would erode the existing character of the conservation area.
- 60 Of particular note is that the Inspector did not find that the principle of development of the site unacceptable. Nor did he find the proposal to appear as a cramped form of development. Where this application differs significantly from the one considered at appeal is that development would be introduced on to the site but, because of its subterranean nature, not at the expense of the openness of the site. Some limited form of development would be apparent above ground – the glazed atrium, retaining wall and dining room window - but these would be at a low level and set a significant distance back from the streetscene. In the context of the site, it would not have a significant impact on the landscape setting of the neighbouring properties or on the openness of the area or its character.
- 61 The orientation of the new driveway to the subterranean garage behind the existing wall would ensure that this element would have a minimal impact on the streetscene, unlike the proposal refused at appeal which necessitated the creation of a new access and had visible retaining walls to its parking area.

62 The proposal is CIL liable and a self build exemption has been claimed for the development.

### **Conclusion**

63 That conditional permission is granted for the proposal.

### **Background Papers**

Site and Block plans

Contact Officer(s): Joanna Russell Extension: 7367

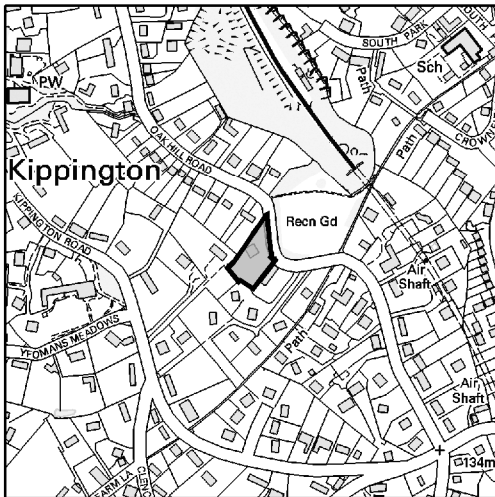
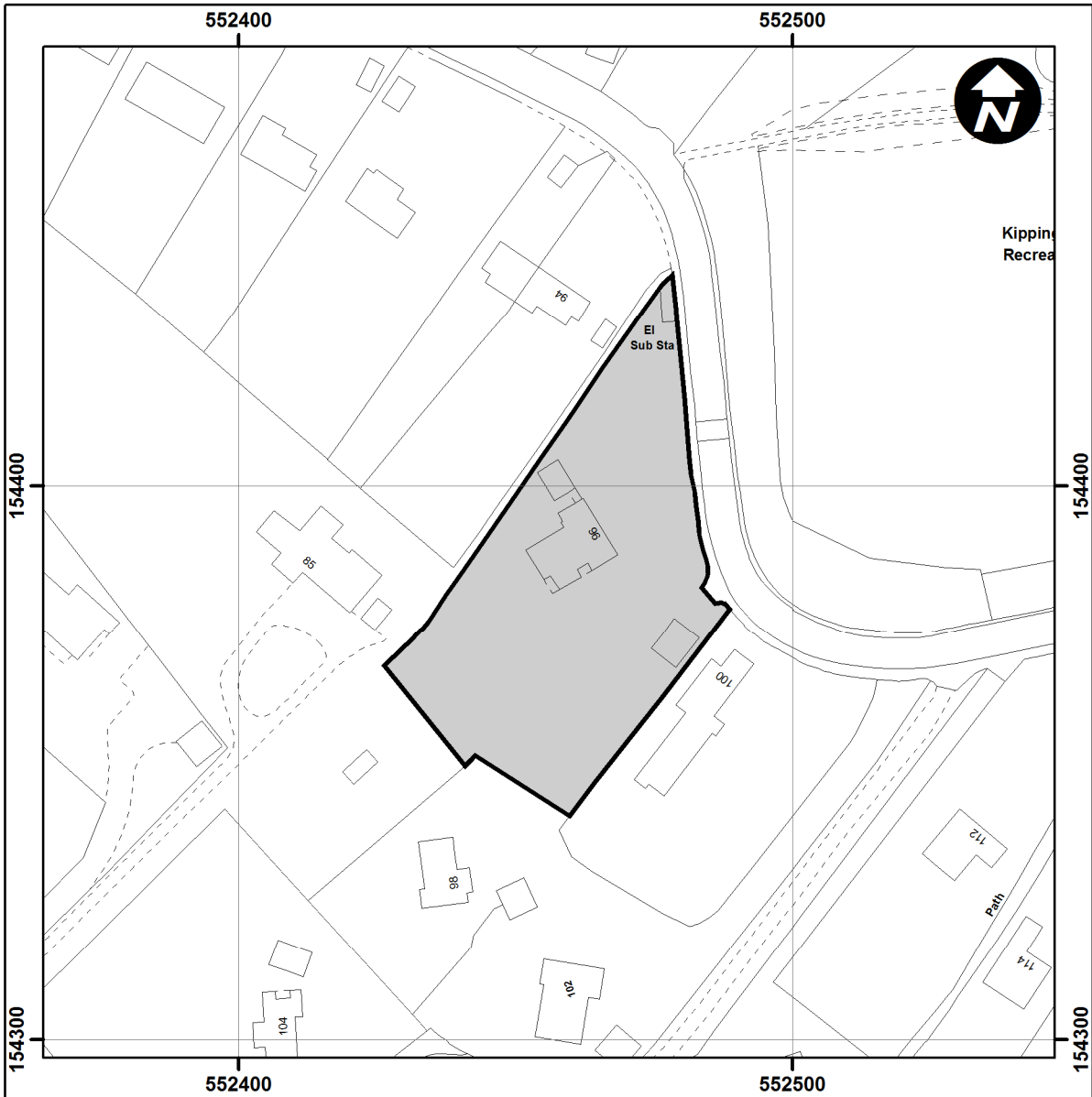
**Richard Morris**  
**Chief Planning Officer**

Link to application details

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NB7P03BKGZL00>

Link to associated documents

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NB7P03BKGZL00>



# Site Plan

Scale 1:1,250

Date 13/11/2014



© Crown copyright and database rights 2014  
Ordnance Survey 100019428.

