

4.1 – SE/14/03298/FUL Date expired 6 February 2015

PROPOSAL: External alterations to existing single-storey chapel to include remodelling of the entrance lobby with a new front single-storey extension, installation of high level window to the main frontage and infill extension to kitchen, alteration to fenestration and new perimeter fencing on north elevation.

LOCATION: Dunton Green Faithworks, The Old Chapel , London Road, Dunton Green Sevenoaks TN13 2TB

WARD(S): Dunton Green & Riverhead

ITEM FOR DECISION

The application has been called to the Development Control Committee by the Chief Planning Officer due to the sensitive and complex nature of the site's planning history.

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

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

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

2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.

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..

3) The development shall be carried out in accordance with the following plans, 13051 205 P2 (proposed only) 13051 204 P2 (proposed only), 13051 201 P1, 13051 203 P1 (proposed only), 13051 206 P1 (proposed only), 13051 202 P1 (proposed only)

For the avoidance of doubt and in accordance with proper planning as supported by policy EN1 of the Allocations and Development Management Plan and the National Planning Policy Framework.

4) The use hereby permitted shall only be carried out between the hours of 0800 and 1730 Monday to Friday and not at all of Saturdays, Sundays and Bank/Public Holidays.

To safeguard the amenity of the area and the amenities of 187 London Road as supported by Policy EN1 of the Allocations and Development management Plan.

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 updated on the progress of the planning application.

Background

- 1 The application was originally called to the Development Control Committee on 12.03.15, by Cllr. Brown so that the highways implications and the impact on the street scene could be discussed.
- 2 The original recommendation was for approval. The original report is attached as **Appendix 1**.
- 3 In summary the officer's report stated that;
 - The original application was for external works to the building (single storey lobby, infill kitchen, high level window, perimeter fencing and changes to fenestration.)
 - The application was not for a change of use. The officer's report stated that both the use as a chapel and as a nursery fall within D1 of the Use Class Order, and therefore using the property as a nursery could be carried out without planning permission.
 - Kent Highway's raised concerns regarding the impact of the nursery use on highway safety. However, they also said that as these concerns were related to the use and not the development proposed, it would be unreasonable to refuse the application on highways grounds.
 - The proposed works would not have an impact on the amenity of the neighbouring property, 187 London Road.

- The proposed works had been designed to reflect the character of the existing building and would not have an unacceptable impact on the street scene.
- 4 The application was deferred for approval, subject to the agreement of the local ward member. It was agreed that officers would gain more evidence as to when the chapel was last in use, and to gain a legal opinion in regard to whether or not the D1 use as a chapel had been abandoned.
- 5 The legal advice received by the Council was received on 2.04.15.
- 6 In summary the legal advice states that;
- The application site is a lawful D1 use, and that this use has not been abandoned.
 - That it is not open to the Council to argue that the proposed nursery amounts to a material change of use in the use of the building, by way of intensification which would require planning permission.
 - That it would not be appropriate for the Council to refuse planning permission for the operational development on the basis that it would facilitate the use of the Old Chapel as a nursery.

Conclusion

- 7 Given the above, the D1 use of the application site is not considered to be abandoned, and therefore the site can be used as a nursery without consent. In addition, it would be unreasonable to refuse the application for the operational development on the grounds that it would facilitate the nursery use or lead to a possible intensification of the use of the site.
- 8 Whilst the Highways comments are noted, as the D1 use of the site has now been established, it would be unreasonable to refuse the application on the grounds of highways safety.
- 9 The proposal would not have an unacceptable impact on the street scene or the amenities of the neighbouring properties. It would therefore comply with the National Planning Policy Framework and policies EN1 and EN2 of the Allocations and Development Management Plan.
- 10 Therefore, the officers' recommendation remains unchanged.

Contact Officer(s): Deborah Miles Extension: 7360

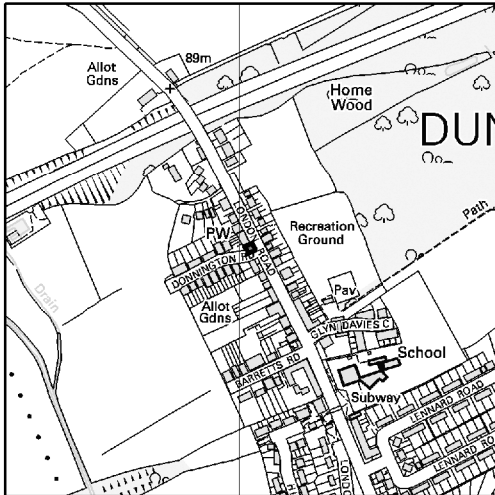
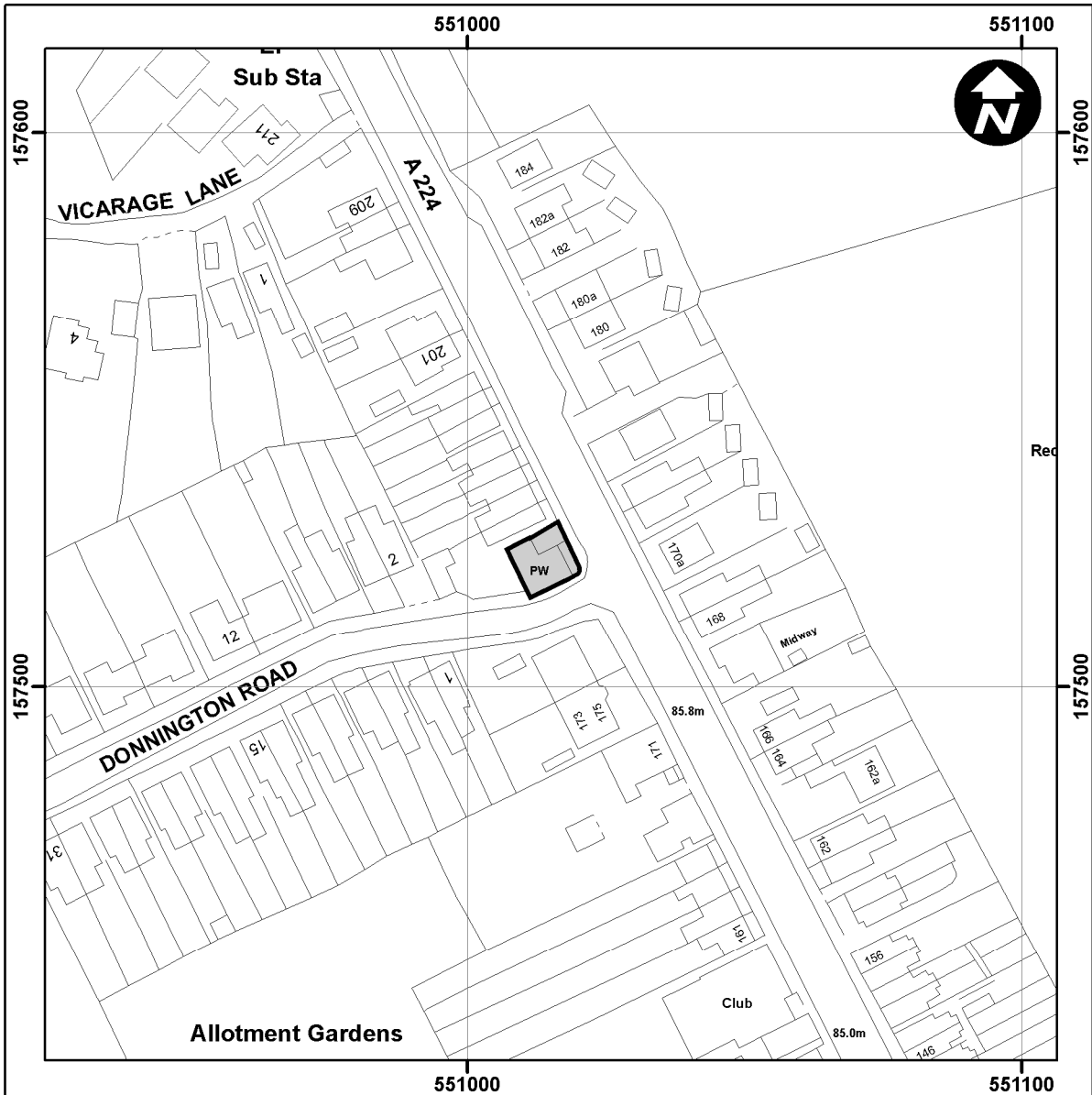
Richard Morris
Chief Planning Officer

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NDIZJ5BKHG300>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NDIZJ5BKHG300>



Site Plan

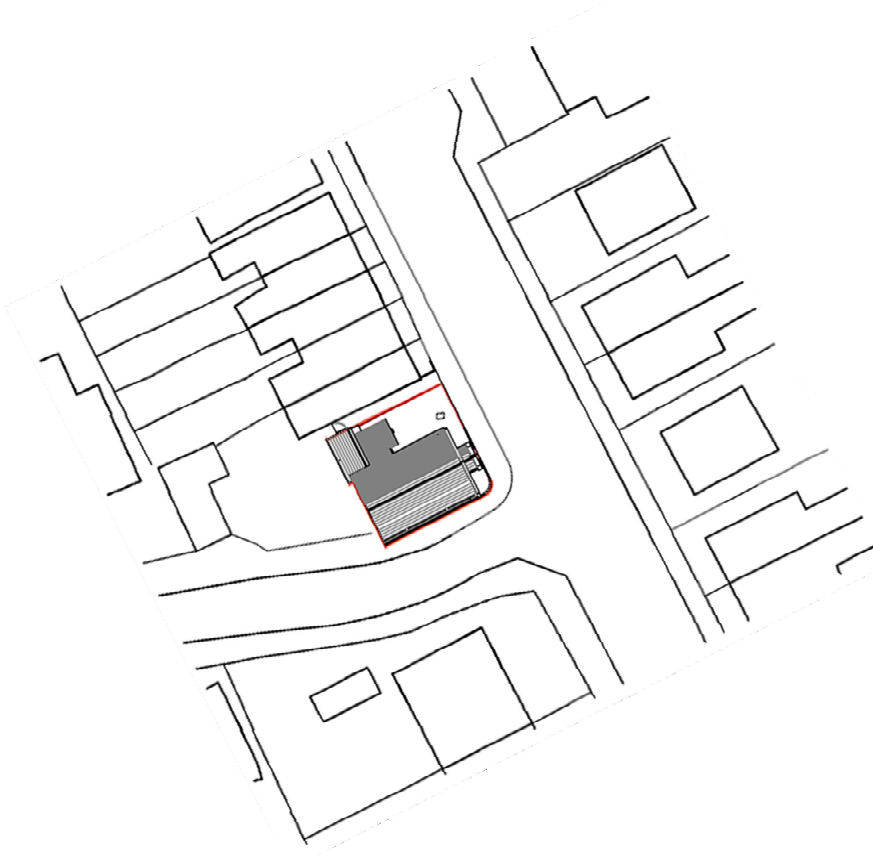
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Date 12/02/2015

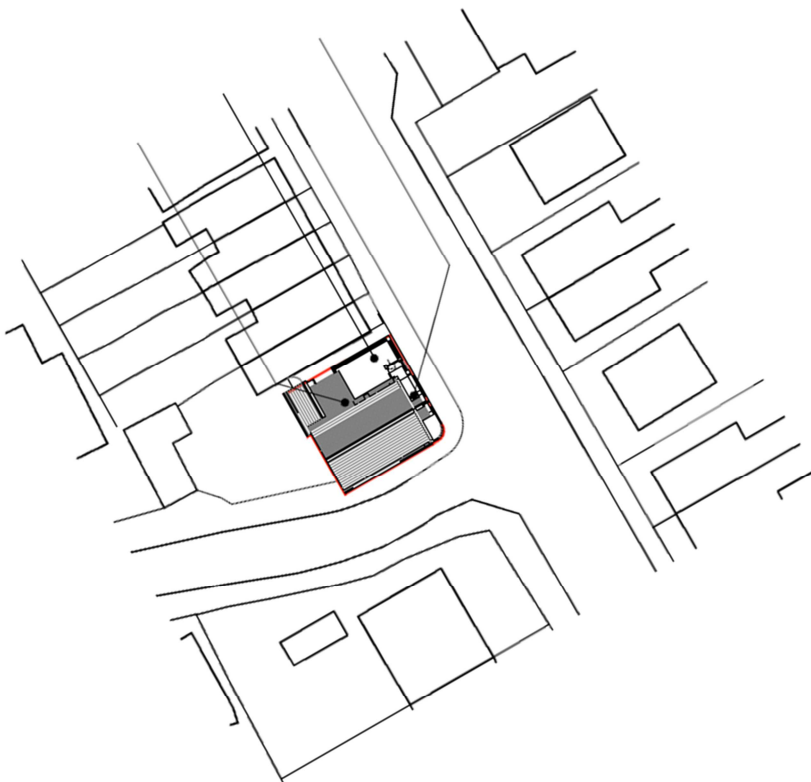


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Sevenoaks District Council, 100019428, 2013.

Block Plan



EXISTING



PROPOSED

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LOCATION: Dunton Green Faithworks, The Old Chapel , London Road, Dunton Green Sevenoaks TN13 2TB

WARD(S): Dunton Green & Riverhead

ITEM FOR DECISION

The application has been referred to Development Control Committee by Councillor Brown so that highways implications and the impact on the streetscene can be discussed.

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

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

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- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Was provided with pre-application advice and in the light of the advice amended the application to address these issues.

Description of Proposal

- 1 This Planning Application is a re-submission (planning reference SE/13/03560/FUL refers). This application was refused on the following grounds:

By virtue of the scale, setting and design of the dormer windows, entrance lobby and fencing the proposal would result in a form of development that would appear detrimental to the character of the existing building and be an incongruous feature within the wider street scene. This is not in accordance with policies EN1 of the Sevenoaks District Local Plan, SP1 of the Sevenoaks Core Strategy and the National Planning Policy Framework.

- 2 The current scheme seeks to overcome these grounds for refusal by reducing the size of the fence to the front of the proposed play area (from 1.8m to 1.3m) and changed from a close boarded fence to a wall (0.5m) with railings above.
- 3 The entrance to the site has also been altered to maintain more of the original features of the building. The dormer windows have also been removed.
- 4 Please note - The proposal is not for the change of use from a church to a day nursery as both of these uses fall within Class D1 of the Use Class Order. Therefore this change of occupier can be carried out without the need for planning permission.
- 5 The applicant has confirmed that there will be 15 children's places and five staff members. No opening hours have been provided by the applicant. However, as

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this application is not for a change of use, it is not considered that this information is necessary.

Officer Note: It would also not be reasonable to limit the hours of use as all they are applying for are the external changes.

Description of Site

- 6 The site is a detached building on a corner plot with London Road and Donnington Road. Although currently empty the site has been previously used as church, which would fall within Class D1. The site faces a busy main road through Dunton Green.
- 7 The character of the area is residential although there is a parade of shops to the south of the site. There is a grassed area to the north of the building which is currently overgrown. It is proposed to enclose this area of land for use as an outdoor play area.
- 8 The land to the rear of the Old Chapel is not included in the application site.

Constraints

- 9 Airfield Safeguarding Zone
- 10 Air Quality Management Area
- 11 Landfill Site

Policies

Sevenoaks Core Strategy

- 12 Policy - SP1

Allocations and Development Management Plan

- 13 Policies - EN1, EN2, T2

Other

- 14 National Planning Policy Framework
- 15 Sevenoaks Residential Character Area Assessment.

Relevant Planning History

- 16 SE/ 13/02074/FUL - External alterations to an existing single storey chapel to include partial demolitions and the construction of a new single storey front and side extension, alterations to fenestration, construction of 3 no. new roof dormers, new mezzanine floor level, new perimeter fencing and new outdoor play area. REFUSED.
- 17 SE/13/03560/FUL - Planning Application re-submission for proposed external alterations to an existing single storey chapel to include the construction of 3 no. new roof dormers, infill portion of kitchen, remodelling of the entrance lobby with

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a new front single storey extension, new high level window to the main frontage and new perimeter fencing. REFUSED. (For reason see Paragraph 1)

Consultations

Parish Council

- 18 Objection and reasons: Dunton Green Parish Council feels that this submission does not address the main concerns that were raised with regard to the original applications (SE/13/02074/FUL & SE 13/03560/FUL) and as a result its original objections are still valid.
- 19 Dunton Green Parish Council objects to this application on a number of grounds:
- 20 Traffic impact: there is no information about the impact of additional traffic and parking requirements. There are no details about the number of staff and any staff that park in the area will negatively impact on what is already an oversubscribed area in terms of parking demand. There is no room in Donnington Road for additional parking and the impact on London Road will be significant. In addition, there is no detail with regard to the impact of additional demand for parking for the drop off and collection of children to and from the nursery. Again, the Parish Council is concerned about the impact on residents and other organisations in the immediate locality and the fact that the increased volume of cars at peak times will create a significant traffic hazard.
- 21 Whilst there is no application for change of use, the Chapel has not been used as a meeting place on a daily basis for decades and the highways impact of its intended use as a nursery cannot and should not be underestimated.
- 22 Street Scene: the Old Chapel is one of the oldest buildings in Dunton Green. The proposed changes, to what is the current entrance and the fenestration, change the look of the building and have a detrimental impact on the street scene.
- 23 Air quality: the provision of a children's play area of limited size and its proximity to the main road is of concern given that London Road is a major commuter road and is affected by low air quality.

Kent Highways

- 24 Number of staff, pupils and hours of opening not specified. As we stressed in our response to 13/02074, this is an unsuitable location for a nursery due to lack of available places to park. This results in highway safety concerns. I visited the site at approximately 8am on a weekday morning at which time there were few places to park nearby, specifically one free space on the nearside of the road, one space in the layby almost opposite, and three spaces in Donnington Road. Clearly the availability of parking places will vary from day to day and according to the hour. As can be seen at another nursery less than a mile away, some parents park their cars inappropriately (e.g. on the verge, even on a traffic island) when delivering their children to their nursery. It is likely that, due to lack of obvious places to park, the proposals will result in parents parking on the double yellow lines flanking the junction with Donnington Road, thereby reducing visibility and causing a safety hazard. Pictures of the site on Google Streetview show an example of a car apparently parked on the double yellow lines at this junction.

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- 25 However, unfortunately planning legislation allows the use of the Chapel as a nursery without planning permission, so there appears to be no viable highways basis for objecting to the present proposals.

Further comments:

- 26 Whilst the Parish Council welcomes the prospect of the chapel being utilised any alterations should be sympathetic to the heritage of the building and not alter the street scene be that in terms of physical changes to the external appearance of the building or in terms of a significantly increased demand for on road parking on an already overstretched area.

Representations

- 27 12 neighbours have been consulted
- 28 One neighbour response has been received which objects, on the following grounds,
- Rubbish
 - Noise pollution
 - Highways

Chief Planning Officer's Appraisal

Impact on the Existing Building and the Street Scene

- 29 Paragraph 60 of the National Planning Framework states that planning decisions should not attempt to impose architectural styles through unsubstantiated requirements to conform to certain development forms or styles.
- 30 Policy EN1 of the Allocations and Development Management Plan states that new development should meet a number of criterion including, development responding to the scale, height, materials and site coverage of the area. Policy SP1 of the Core Strategy supports.
- 31 The Sevenoaks Character Area Assessment includes a section on the Donnington Road/London Road Area, and lists both distinctive positive features in the area and design guidance for future development.
- 32 The existing building is single storey with a pitched roof. It has a lower ridge height than the surrounding dwellings which is a mix of styles.
- 33 With regard to the alterations proposed to the entrance way, this part of the proposal will also be subservient to the main building, and has been designed to maintain the fenestrations, style and shape of the original building.
- 34 The alterations to the side extension involve infilling a current gap adjacent to the main dwelling and continuing the roof. This will not be widely visible from the neighbouring properties or the street scene.
- 35 The overall height of the structure will not be increased. The proposed fence will enclose the site to a greater degree and result in a loss of greenery to the street scene. However the street scene is already urban in character and although there

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are no similar fences in the immediate area it is not felt that this form of development would be out of place, as it has been designed to retain a degree of openness.

- 36 The Parish have raised concerns regarding the character of the building referring to it as one of the oldest in Dunton Green. The Sevenoaks Residential Character Area Assessment does refer to the area as a residential area with some business use and the buildings being early 1890's to 1900s. The Old Chapel is not picked out individually in the Assessment, but it does make a valuable contribution to the character of the area
- 37 Although the proposals will alter the appearance of the building to some extent they will not be an incongruous feature or so harmful to the character of the building and the wider area as to be detrimental to the street scene.
- 38 Given the above it is felt that the proposal will not have an unacceptable impact on the character of the existing building or the wider area. The development would comply with local and national policies.

Impact on residential amenity:

- 39 Policy EN2 of the Allocations and Development Management Plan states that adequate residential amenities should be safeguarded for existing and future occupiers. Development which results in excessive form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements.
- 40 The proposal most likely to be affected by the proposal is 187 London Road, immediately adjacent to the site.
- 41 There are a number of windows on the facing elevation of 187 London Road, two at ground floor level, three at first floor level and one on the roof. None of these windows are obscure glazed and it is likely that they serve habitable rooms.
- 42 In terms of outlook and loss of daylight/sunlight the windows in the upper storeys are unlikely to be affected.
- 43 The windows on the ground floor already look on to the existing single storey extension to the building. As part of the current scheme the existing side projection on the chapel will not be altered and therefore in terms of daylight and outlook the existing situation on site will not be altered.
- 44 The flank elevation of this property is 1 metre from the boundary with the Old Chapel. The two buildings are separated by an access path which appears to be in the curtilage of 187 London Road and leads to their rear amenity area. Due to the close proximity of the two properties I do still have some concerns regarding the noise from the play area that will be immediately adjacent to this access track. As previously mentioned however, permission is not required to use this area as a play area and therefore it would be unreasonable to refuse the application on these grounds.
- 45 A fence is proposed around this area which would be 1.8 metres in height, however this will be posts set on a low wall (0.5m) with rails on top. Previously, concerns were raised about the impact on outlook to the ground floor windows

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on the flank elevation of 187 London Road. However it was concluded that the impact of the previous scheme on the amenities of this neighbour was not considered sufficient grounds for refusal.

- 46 The changes proposed reduce the feeling of enclosure on the site, and the impact on outlook from facing windows.
- 47 There is no policy in the Local Plan which relates to assessing the impact of proposals that are directly opposite neighbours' windows. However The BRE (Building Research Establishment) do set out a 25 degree test that can be useful in assessing the impact of daylight. A 25 degree line is drawn from the centre of the window likely to be affected. If an obstructing building creates an angle of greater than 25 degrees from the horizontal, measured from the centre of the lowest window, then a more detailed check is required.
- 48 In this case the 25 degree line is obstructed by the existing building on site; however the 25 degree line will pass over the top of the proposed fence. Therefore, the existing situation on site will not be altered and there will be no further loss of light as a result of this proposal.
- 49 Whilst it is understood that there will be concerns in regard to the impact of the use on residential amenity, planning permission is not required for the use. The external works proposed are considered to be in accordance with policy and would not have a detrimental impact on the residential amenity of adjacent properties or warrant refusal of the application.

Highway Safety

- 50 Kent Highways have raised concerns regarding the impact of the proposal on highway safety, however they conclude by saying that these concerns are related to the use and not the development proposed. As permission is not required for the change of use it would be unreasonable to refuse the application on these grounds.

Air Quality

- 51 The Parish Council have raised concerns with regard to the Air Quality and the impact of a play area so close to a main road. Paragraph 109 of the National Planning Policy Framework states that new and existing development should not be put at an unacceptable risk from air pollution. Environmental Health were not a required consultee on either application although they have provided informal views. Environmental Health have raised no objections as the amount of time children are likely to be exposed to poor air quality is limited. Based on this view it is considered that a refusal on Air Quality grounds would not be justified.

Other issues

- 52 There are a limited number of ways in which an existing use of land can be lost at law. One such way is by abandonment as stated by *Hartley v Minister of Housing and Local Government [1970] 1 Q.B.413*. Where a use is abandoned, the land will have a nil use and planning permission would be required to resume the former use.

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- 53 In *Castell-y-Mynach Estate (Trustees of) v Secretary of State for Wales [1985] J.P.L. 40* the Court of Appeal held that four factors should be considered. They are:
- *the physical condition of the building(s),*
 - *the period of non-use,*
 - *whether there had been any other use and,*
 - *the owner's intentions.*
- 54 The building is still in physically good condition, and there has been no other use on the site since the chapel ceased to operate. In addition the owner has intended to use the site as a nursery since 21.08.13 when the first application was submitted. In light of the above officers would take the view that the site had not been abandoned in this instance.

Conclusion

- 55 The proposal would not have an unacceptable impact on the street scene or the amenities of the neighbouring properties.
- 56 The concerns with regards to highways have been noted however as the building can be currently used as a nursery without planning permission it would be unreasonable to refuse the application on the grounds of highway safety.
- 57 Given this I recommend the application for approval.

Background Papers

Site and Block plans

Contact Officer(s): Deborah Miles Extension: 7360

Richard Morris
Chief Planning Officer

Link to application details

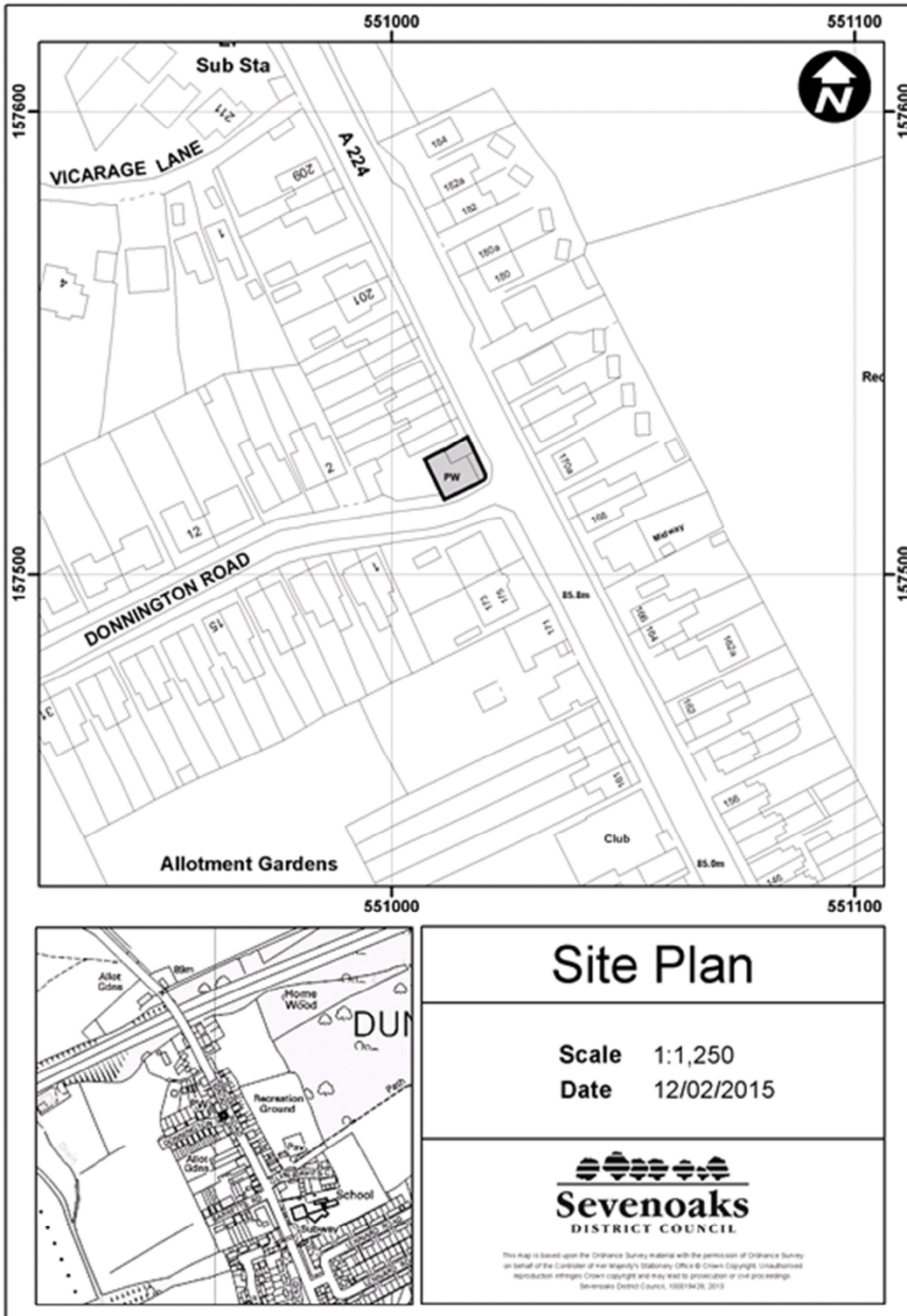
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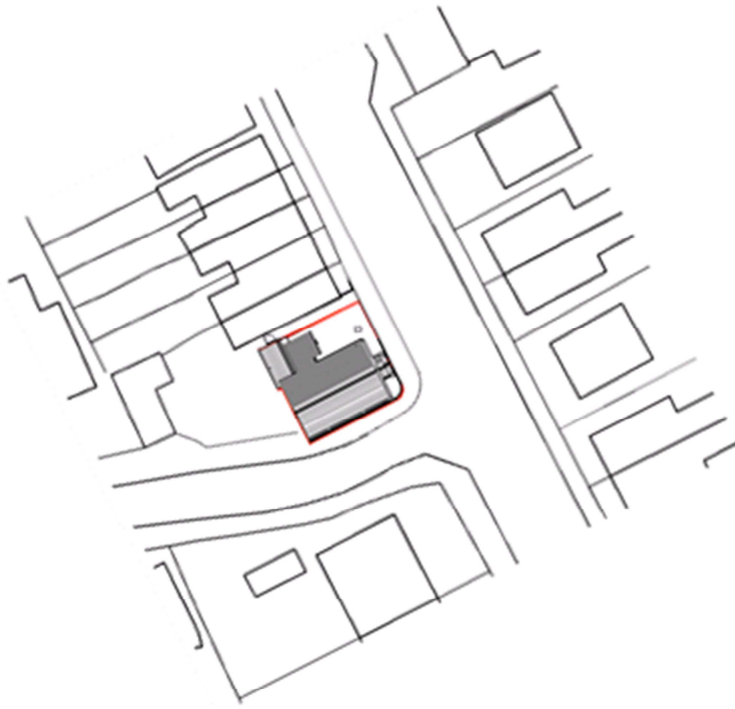
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Block Plan



EXISTING



PROPOSED

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