

4.1 20/00329/FUL

Revised expiry date 6 July 2020

Proposal:

Change of use from former telephone exchange B1 to place of worship D1.

Location:

Mills Family Ltd, Axel House, 3 London Road Farningham
KENT DA4 0JP

Ward(s):

Farningham, Horton Kirby & South Darent

Item for decision

The application has been referred to Committee by Councillor McGarvey for reasons including: adverse impact on neighbours in a residential area; the lack of benefit to the existing community; insufficient parking provision; flawed marketing for continued office use; and unproven need.

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 development hereby permitted shall be carried out in accordance with the following approved plans and details: Location Plan; 679-02/A, 679-03.

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

3) The building shall be used only as a place of worship and shall not be used for any other use falling within the D1 use class of the Town and Country Planning (Use Classes) Order 1987 (as amended).

To preserve the amenities of nearby residents and to protect highway safety, to comply with policies EN1, EN7 and T2 of the ADMP.

4) No more than 25 people shall attend the building at any one time.

To preserve the amenities of nearby residents and to protect highway safety, to comply with policies EN1, EN7 and T2 of the ADMP.

5) The building shall only be used for services carried out between the hours of 07:00 and 08:30 on Sundays and 18:15 and 20:15 on Mondays. There shall be no use of the building prior to 06:45 on Sundays and after 20:30 on Mondays or at any other times.

To preserve the amenities of nearby residents and to comply with policies EN2 and EN7 of the ADMP.

6) There shall be no amplified sound or amplified music generated at the site at any time.

To protect the amenities of nearby residents, to comply with policies EN2 and EN7 of the ADMP.

7) Prior to the first use of the building, secure cycle parking facilities shall be provided for a minimum of two cycles and these shall be maintained and available for use at all times.

To ensure that facilities are provided to encourage sustainable transport to the site, to comply with policy SP2 of the Core Strategy.

8) The hardstanding to the front of the building shall remain available for parking and free of obstruction at all times.

To ensure that the parking area remains available for use as such at all times and to ensure compliance with policies EN1 and T2 of the ADMP.

Informatives

1) The applicant is reminded that new gates to the front of the site do not form part of this planning permission.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Description of Site

- 1 The application site is located on the north eastern side of London Road, within the confines of Farningham.
- 2 The site contains a detached single storey brick building with pitched roof. The building is set back from the street with an area of hard surfacing and vehicular access at the front.
- 3 To the north the site directly adjoins the access to the BT Exchange building, which sits behind the site. No.5 London Road sits to the other side of that access. To the south the site neighbours No.1 London Road. Both are residential properties and this part of London Road is characterised predominantly by residential uses.

Description of Proposal

- 4 Planning permission is sought for the change of use of the site to a place of worship.
- 5 Additional information was received during the course of the application. This included additional information regarding noise disturbance and confirmation of a change in the time for Sunday services to commence.

Relevant Planning History

- 6 15/0550/PAC- Application for prior approval for the change of use of the site from B1 to a C3 (residential) use. The Council confirmed that prior approval was not required, in line with Class O, Part 3 of the General Permitted Development Order. Not implemented.
- 7 06/03033/FUL- Planning permission granted at appeal for alterations to windows and roof lights to facilitate creation of additional office floor space.
- 8 98/01523/HIST- Planning permission refused for change of use to 3 dwellings with extensions.
- 9 79/01430/HIST- Planning permission refused for use of the building for storage.
- 10 SE/79/1313- Planning permission granted for change of use to offices, specifically for 'micro electric systems and the assembly of prototype units'. Condition 5 (restricting the permission to personal use) was removed by application 02/02004/CONVAR.

Policies

- 11 Core Strategy (CS)
 - SP1 Design of New Development and Conservation
 - SP2 Sustainable Development
 - SP8 Economic Development and Land for Business
 - L07 Development in Rural Settlements
- 12 Allocations and Development Management (ADMP)
 - SC1 Presumption in Favour of Sustainable Development
 - EN1 Design Principles
 - EN2 Amenity Protection
 - EN4 Heritage Assets
 - EN5 Landscape
 - EN7 Noise Pollution
 - EMP5 Non Allocated Employment Sites

- 13 Other:
- NPPF and Planning Practice Guidance
 - Kent County Council Parking Standards

Constraints

- 14 The site lies within the following constraints:
- Farningham Conservation Area
 - AONB
 - Area of archaeological potential
 - Tree preservation order (within the front garden of 1 London Road)

Consultations

- 15 Farningham Parish Council - Objection:
- “It is inappropriate development and unsympathetic use in a residential setting; insufficient parking provision; not providing any benefit to the local community; loss of employment opportunities and failure to properly market the premises for employment/ offices; misleading/ untrue assertions in the application and supporting documentation.”
- 16 Additional comments have been provided by the Parish which can be summarised as follows:
- Inadequate parking on the frontage;
 - There are 6 churches in Farningham and Eynsford already;
 - Unlikely to serve the local population;
 - Concerns for users travelling from south east London;
 - Concerns for the marketing undertaken;
 - The site has been used as offices for many years, not a telephone exchange;
 - Concerns for operating/ opening hours;
 - Concerns for lack of public transport, particularly on Sundays and inaccuracies/ contradictions in the applicant’s documents;
 - Enforcement issues with other uses in the area.
- 17 Environmental Health:
- 18 First Consultation (summary):
- Agree that the use with unamplified voices and unaccompanied with music on 2 days would only have a minor impact on the nearest sensitive dwellings.
 - Concern for potential other uses or activities.

- Concern for noise generated by vehicles, particularly in the early morning rising above background noise levels. Questioned whether conditions could restrict vehicle access or numbers.
- In summary at this time, not fully accepted that there would be no impact on local residents especially for the early Sunday activity.

19 Second Consultation:

“Having reviewed the additional submissions I am satisfied that the proposed use is unlikely to have an adverse effect on nearby residents and therefore I am happy to support this application.”

20 KCC Highways and Transportation:

21 First Consultation (summary):

- According to the Planning Statement the maximum numbers would be 25.
- Parking standards require 1 parking space per 5 seats for a place of worship, equating to 5 spaces.
- Those travelling from locally may use sustainable transport means.
- The minimum number of cycle parking spaces in line with SPG4 would be 1 per 100sqm GFA. The proposal for 2 cycle parking spaces is adequate.
- According to the documents, traffic generation would be limited to Monday evening and Sunday morning, both at off-peak times. It is accepted that traffic generation would be less than the existing office use at peak times and therefore it would not justify any objection on the grounds of traffic generation.
- The above is reliant on the stated restrictions on the number of attendees and hours of house. Recommend conditions.
- Possibly a temporary permission may be appropriate to allow the situation to be assessed again after that period, eg 3 years.
- A condition is recommended to ensure that any gates across the access open away from the carriageway and a minimum of 5m from the edge of the carriageway so not to obstruct the road.

22 Second Consultation:

“I refer to my previous response dated 24th March 2020 and confirm that the additional information submitted does not appear to concern any highway issues associated with the application.”

23 SDC Tree Officer

“This proposal appears to just be a change of use with no alterations to the grounds or vegetation referred to. This being the case I have no further comments.”

Representations

- 24 Two rounds of public consultation have been undertaken. The second followed the submission of additional information by the applicant.
- 25 Objections have been received from 27 addresses and in some instances addresses have commented more than once. The issues raised may be summarised as follows:
- No demand for a place of worship above the existing ones;
 - Significant existing parking pressures and parking restrictions;
 - Lack of public transport;
 - Off street parking area would fail to meet demand;
 - Many existing properties do not have existing off street parking so rely on the street;
 - Decrease in road safety- London Road is a busy cut-through;
 - Pollution;
 - Question of fire safety of so many users in one building;
 - Harm to living conditions of residential properties- noise disturbance, particularly on a Sunday;
 - Increased pressure to alter the existing building and harm to the Conservation Area;
 - Crowds in Swanley from this organisation would cause detriment;
 - Congregation may not be local;
 - The building is an opportunity for a use that would serve the village;
 - Lack of public benefit;
 - Lack of consultation;
 - Concerns for monitoring and enforcement;
 - Effects on property value;
 - Nearby alternatives;
 - Potential crime and cultural differences
 - Covid-19 and associated restrictions on gatherings would make this use a risk to the village;
 - In light of Covid-19 people have to walk in the road for social distancing- further risk to pedestrians
- 26 An objection is also noted from Councillor Carroll.
- 27 Comments in support of the application have been received from 6 addresses, including those from the potential congregation. The planning issues raised in support of the application can be summarised as follows:
- The proposed congregation
 - Would be within walking and cycling distance;
 - The existing use could be used more intensively with more traffic and deliveries;
 - Users would park in the existing parking area;
 - The use would only operate at quiet times;
 - Existing building is kept as it is;
 - Other options would have a worse impact

Chief Officer Planning and Regulatory Services' Appraisal

Principle Issues

- 28 The main planning considerations are:
- The principle of the change of use and loss of existing use;
 - Impact on residential amenity;
 - Impact on highways and parking;
 - Impact on the Conservation Area and AONB.

The principle of the change of use and loss of existing use

- 29 The previous use of the site is understood to have been offices (B1) and this use is unrestricted due to the permission granted in 2002 which removed restrictions on the occupants.
- 30 ADMP policy EMP5 refers to non-allocated employment sites and states that when considering proposals for the creation or loss of business uses on unallocated sites, the Council will assess the impact of the proposals on the environment, local economy and local community. It goes on to state "The Council will permit the loss of non-allocated lawful business premises and sites to other uses provided it can be demonstrated, to the satisfaction of the Council, that the site has been unsuccessfully marketed for the re-use in employment for a period of at least 6 months and that there is no reasonable prospect of their take up or continued use for business use at the site/ premises in the longer term."
- 31 The applicant's Planning Statement states at para 5.19 that "appropriate marketing by Linays did not reveal an interest in the property other than that expressed by the applicant". The applicant has submitted details of some of the marketing material for the building, however this is undated and does not detail the price sought for the use of the building. There is no commentary provided by the applicant to satisfy Officers that the building was marketed for a reasonable period of time or for a reasonable price. As such I am not satisfied that there is no prospect of the building being used again for B1 purposes.
- 32 Concern has also been expressed through the public consultation process for the robustness of the marketing strategy.
- 33 Despite this, it is relevant that in 2015 the Council confirmed that prior approval was not required for the change of use of the existing building to a residential dwelling. It is still the case that provisions for the change of use of offices to dwellings still exist within the Town and Country Planning (General Permitted Development) Order, within Class O. The existing office use could therefore be lost without the need for planning permission.

- 34 Policy TLC4 of the ADMP refers to the range of uses within those neighbourhood and village centres defined by Appendix 8 of the ADMP. Farningham does not appear as one of those centres defined by Appendix 8, and therefore this policy is not considered directly applicable to these proposals.
- 35 The proposals seek to provide a place of worship which is widely considered to be a social and community use. The provision of such uses in rural settlements such as Farningham is supported by policy L07 of the Core Strategy.
- 36 Overall, while it has not been demonstrated that the site has been robustly marketed or could not be occupied for a B1 use again, it is relevant that the government give provisions for the change of use of the building away from office use without the need for planning permission. The proposed use in this instance is also one which is supported by policy and for these reasons, the proposed change of use is acceptable.

Impact on residential amenity

- 37 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing residents. The site is located within a predominantly residential area and there is potential for the proposals to cause noise disturbance to local residents through the use of the building and also by the associated vehicle movements.
- 38 The Planning Statement and additional information, details the following:
- that the use would only take place on two days of the week;
 - services would be 90 minutes on Sunday morning (from 7am) and 2 hours on Monday evening (18.15 to 20.15);
 - the building limits users to 25 people;
 - no electronic music would be used.
- 39 The views of Environmental Health have been sought and the Environmental Health Officer considers that the use of the premises with unamplified voices and unaccompanied with music on the two days specified would only have a minor impact on the nearest sensitive dwellings.
- 40 Given the potential for a group to cause noise disturbance and the sensitivity of the site, it is considered reasonable that planning conditions are used to restrict: the times and lengths of the use; the number of users at any one time, and; to prevent the use of amplifying equipment within the building. By imposing these conditions would ensure that the applicant required further planning permission should they wish to intensify the use of the building.
- 41 A condition can also be used to ensure the building is used only as a place of worship and not as any other use within the D1 use class. Other uses may have a very different impact on local amenity and also the highway and should have reassessment through a new planning application.

- 42 The Government’s Planning Practice Guidance highlights that “As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.” This has occurred in this instance and the Noise and Nuisance team within Environmental Health have been consulted on the application to help establish whether the new use is likely to cause significant noise disturbance.
- 43 The planning application was initially accompanied by a Noise Impact Assessment which considered the impact of the development on the nearest residential properties, in particular 1 London Road (neighbouring to the south east) and 5 London Road (to the north west, separated by the access to the BT building behind). The Assessment is informed by two noise surveys that were undertaken at the site over periods of 15 minutes to establish the background noise levels at different times of day. The Assessment concludes that the use of the building would not exceed the background noise level. The Environmental Health Officer has accepted that the use of the building itself, assuming unamplified voices and music, would only have a minor impact on the nearest sensitive dwellings.
- 44 The Environmental Health Officer has raised concerns for the potential disturbance from cars and further information was submitted by the applicant to consider engine sound arising from vehicles using the car park. The further information concludes:
- 45 “In the event all peak period activity took place at the same time, the total level at the worst affected premises could be as much as 19dB. This is lower than the lowest individual LA90 measurement from the entire course of the relevant period. It is further noted that an external level of 19dB would correspond to 6dB internally”
- 46 The Noise and Nuisance team in Environmental Health have responded to the technical information, confirming their view that the development would not have an adverse impact on the amenities of nearby occupants.
- 47 Overall, it is likely that the use of the building would be perceived to some degree by nearby residents, particularly in early hours when users are arriving at the site. However any noise disturbance would not rise significantly above the ambient background noise levels in the area and would not cause significant harm to the living conditions of the nearby properties.
- 48 In this case, in light of the above support of the Council’s Environmental Health team, and as conditions could reasonably be imposed to control the number of users and hours of use, it is not considered that significant harm would occur to the amenities of nearby properties.
- 49 It is also relevant that the site currently benefits from an unrestricted B1 (office) use without restrictions on operating hours, numbers of staff or servicing arrangements.

50 The proposals comply with the aims of policy EN2.

Impact on Highways and Parking

- 51 Kent County Council's parking standards require that a place of worship accommodating 25 users should provide 5 off street parking spaces (based on 1 space for 5 seats).
- 52 The site includes an existing area of hard surfacing in front of the building which would provide off street parking for users of the building. The front parking area is not square, but measures approximately 11m at its narrowest point between the front of the building and the front boundary wall. This could therefore accommodate 4 parking spaces parallel to the northern site boundary, with a further parking space provided to the southern side of the building, in a similar position as shown on the proposed plans. It is therefore considered that the site could accommodate the extent of parking spaces required to meet KCC standards within the existing car park. Based on KCC standards the proposals would therefore not impact significantly upon existing on street parking.
- 53 It is recognised that the site is not easily accessible by public transport during the proposed service times, however as described above, the site is still able to achieve the parking standards required by the Highways Authority.
- 54 Provision is also shown for cycle parking, which is welcome and would encourage sustainable means of transport to the site.
- 55 In terms of traffic generation, given that services are proposed only twice a week and at off-peak times, it is very likely that the levels of traffic generation would be less than the existing unrestricted office use. This view is shared by the Highways Authority who have commented that the proposed levels would not justify an objection on the grounds of traffic generation.
- 56 It is relevant that the National Planning Policy Framework at paragraph 109 states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."
- 57 Subject to conditions restricting the use of the building and its hours, the impact on the road network and on local highway safety, is considered acceptable.
- 58 The Transport Statement submitted by the applicant suggests that new gates would be provided to the front of the site at the point of access. However no details of those gates have been included in the application drawings or application forms and the gates have not formed part of public consultation exercise. For these reasons an informative is recommended to remind the applicant that the gates do not form part of the approved plans. It is relevant however that the applicant may be able to install gates without the need for planning permission, depending on their height.

Impact on the Conservation Area and Area of Outstanding Natural Beauty (AONB):

Conservation Area

- 59 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a requirement on a local planning authority in relation to development in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 60 Interpretation of the 1990 Act in law has concluded that preserving the character of the Conservation Area can not only be accomplished through positive contribution but also through development that leaves the character or appearance of the area unharmed.
- 61 Policy EN4 of the ADMP states that proposals that affect a Heritage Asset, or its setting, will be permitted where the development conserves or enhances the character, appearance and setting of the asset.
- 62 In this instance no external alterations are proposed to the building itself. Planning permission is likely to be required if the applicant wished to make external changes. On this basis the contribution of the building to the character and appearance of the Conservation Area would be unchanged. The proposals would introduce a social use to the building and would preserve the character and appearance of the conservation area, compliant with policy.

Area of Outstanding Natural Beauty

- 63 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.
- 64 There are therefore two considerations directly related to a site's AONB status when determining a planning application. Firstly, does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement. A failure to achieve both of these points will result in a conflict with the requirements of the Act.
- 65 Policy EN5 of the ADMP states that the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings will be given the highest status of protection in relation to landscape and scenic beauty. Proposals within the AONB will be permitted where the form, scale, materials and design will conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.

- 66 As above, these proposals do not entail alterations to the outside of the building and its visual contribution to the landscape character would remain unchanged. The proposals would introduce a use into a currently vacant building and serve a community purpose. It can be concluded that the proposals conserve and enhance the AONB, compliant with policy.

Other Issues

- 67 Other issues which have been raised within public consultation, but not considered above, include:

Fire regulations and Safety

- 68 These issues fall outside the remit of planning policy. It would be the responsibility of the applicant to ensure that other areas of legislation, including Building Regulations, have been met.

Monitoring and enforcement

- 69 The Council have a Planning Enforcement Team whose role it is to investigate any breaches of Planning Control. If at any time local residents were concerned that the conditions of the permission were being breached, this matter should be reported to the Planning Enforcement team for investigation.

Pollution

- 70 Given the number of vehicles likely to be involved with the use of the building, compared to those that could arise from the lawful existing use of the building, it is not considered necessary that further restrictions or mitigations are secured in terms of pollution.

Effects on property value

- 71 This is not a matter for consideration in the planning process and the government advises that a negative effect on property values is not a material planning consideration.

Increased risk to the village at the time of Covid-19

- 72 Restrictions on social distancing are a temporary measure and current government restrictions do not give reason to withhold or delay a planning decision such as this. The applicant would be responsible for ensuring compliance with other government guidance and restrictions in this regard.

Alternatives are available nearby

- 73 It may be the case that other alternatives exist to the applicant, however there is not a planning policy requirement to demonstrate that this is the only reasonable alternative available to them. The Council are required to assess the acceptability of the proposals on their own merits.

Alternative uses for the building

- 74 While there are views about alternative uses for the building which would better serve the local community, the Council are required to consider the current application as it stands and on its own merits.

Community Infrastructure Levy (CIL)

- 75 This proposal is not CIL liable.

Conclusion

- 76 The proposed loss of the existing employment use is, on balance, considered to be acceptable. The proposals are able to provide a level of off street car parking which meets adopted parking standards and would not generate a significant level of traffic generation. Subject to restrictive conditions on the use, the amenities of local residents could be preserved, compliant with local and national policy.

Background Papers

Site and Block Plan

Contact Officer(s): Claire Shearing Extension: 01732 227000

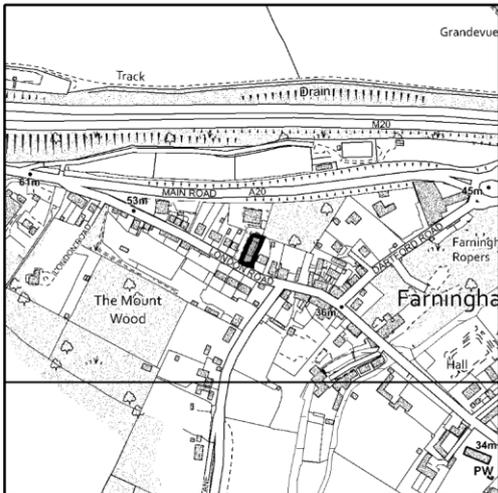
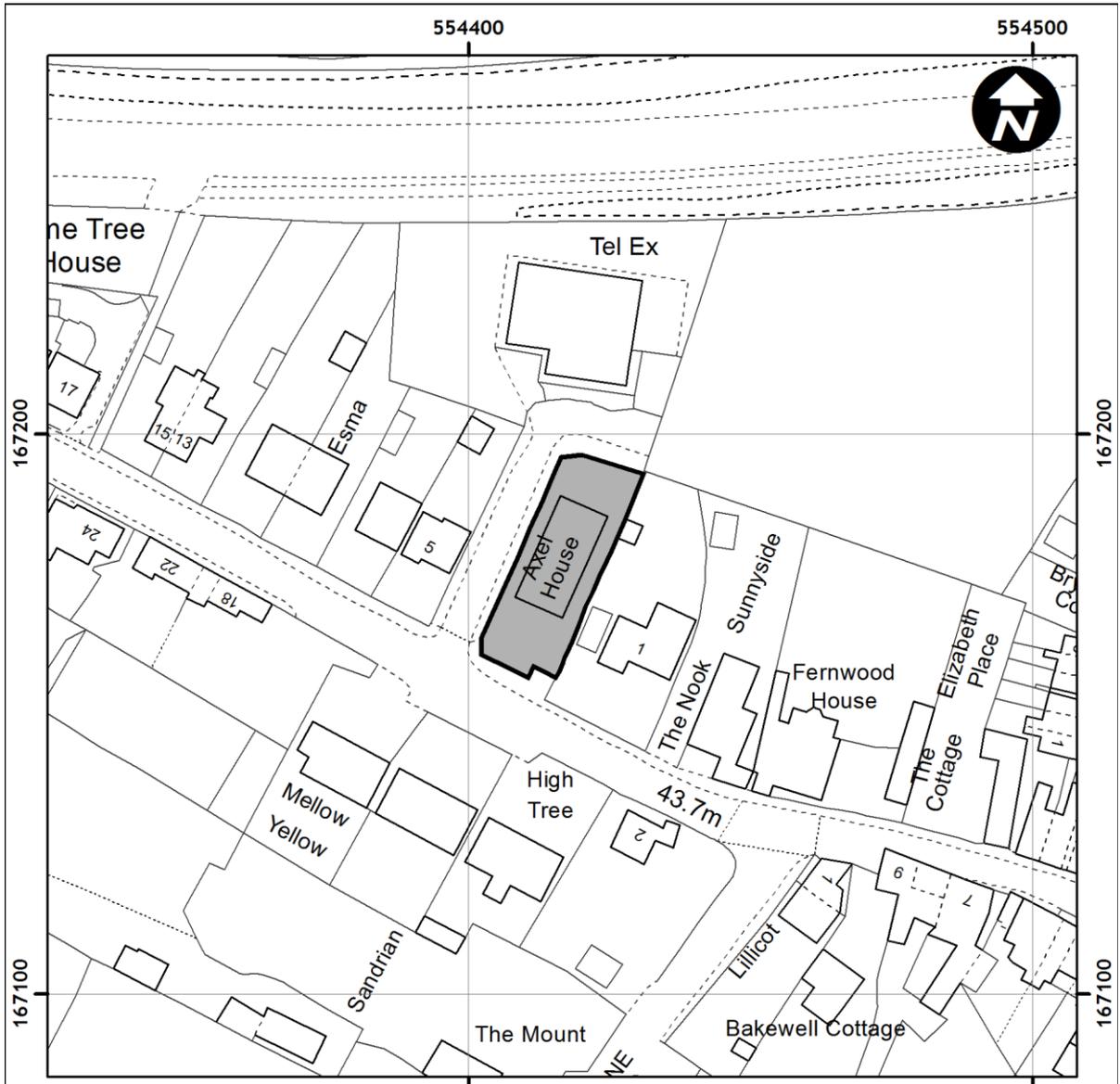
Richard Morris
Chief Officer Planning & Regulatory Services

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q58N1ABKIBA00>



Site Plan

Scale 1:1,250
 Date 12/06/2020



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 Ordnance Survey 100019428.

BLOCK PLAN

