

4.1 20/03245/FUL

Revised expiry date 23 February 2021

Proposal:

Demolition of existing buildings and erection of replacement dwelling.

Location:

Linwood, Main Road, Knockholt KENT TN14 7NT

Ward(s):

Halstead, Knockholt & Badgers Mount

#### **Item for decision**

The application is referred to the Development Control Committee by Councillor Grint on the grounds that it is inappropriate development in the Green Belt.

**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: PD-10 and PD-11.

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

3. Before the commencement of the development hereby approved a phase 1 (desk top) contaminated land study shall be undertaken to establish the potential presence of soil contamination. If the Phase 1 study indicated that further investigation is necessary, then a Phase 2 contaminated land investigation including a remediation methodology (if necessary) shall be undertaken and submitted to the local planning authority for approval in writing. The investigation and risk assessment must be undertaken by suitably qualified and accredited persons. The details shall be implemented as approved. If during any works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the local planning authority. Following completion of measures identified in any approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be prepared by suitably qualified and accredited persons and submitted to the local planning authority for written approval.

To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with policy EN2 of the Council's Allocations and Development Management Plan

4. From the commencement of works (including site clearance), all precautionary mitigation measures for ancient woodland and protected species will be carried out in accordance with the details contained in sections 9.2 through to 9.11 of the Ecological Impact Assessment (Native Ecology July 2020).

In the interests of protecting the adjacent ancient woodland and protected species as supported by policy SP11 of the Sevenoaks District Core Strategy.

5. Within six months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include recommendations within section 10 of the Ecological Impact Assessment (Native Ecology July 2020). The approved details will be implemented and thereafter retained.

In the interests of protecting the adjacent ancient woodland and protected species as supported by policy SP11 of the Sevenoaks District Core Strategy.

6. The development hereby permitted shall be constructed in accordance with the materials specified on the planning application form.

To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

7. The curtilage and means of enclosure shall not be implemented other than in accordance with the details hereby approved and as indicated on drawing PD-10.

To define the extent of development and to ensure a satisfactory appearance which will preserve the amenities of the area as supported by policy EN1 of the Sevenoaks Allocations and Development Management Plan.

8. No works, including any removal and/or replacement of hard surfacing, shall take place within the canopy spread of the mature Oak tree (no.31 on drawing PD-10) unless in accordance with details of tree protection measures which shall first have been submitted to the District Planning Authority for approval in writing.

To prevent damage to the oak tree during the construction period as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

9. The development hereby permitted shall provide an electrical socket with suitable voltage and wiring for the safe charging of electric vehicles within the residential curtilage prior to the first occupation of the new dwelling hereby approved and maintained thereafter.

In the interests of sustainable development and reducing emissions as supported by policy T3 of the Council's Allocations and Development Management Plan.

### **Informatives**

- 1) Please note that in accordance with 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 on the Self Build Annex. Failure to do so will result in the CIL charge becoming payable in full.
- 2) New build developments or converted properties may require street naming and property numbering. You are advised, prior to commencement, to contact the Council's Street Naming and Numbering team on 01732 227328 or visit [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk) for further details.

### **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 comprises an extensive plot, with a bungalow and several large outbuildings set well back from the highway, accessed by a private driveway from Main Road. It occupies a rural setting, part of a ribbon of development which extends along the road to the west of Knockholt centre.
- 2 The site is located outside the village confines of Knockholt.

### **Description of Proposal**

- 3 The proposal seeks the demolition of existing buildings and erection of replacement dwelling.
- 4 The current approval under 20/01957/FUL allows the extension, conversion, and re-use of the two existing buildings for residential purposes. On the basis of the existing permission, it is proposed to demolish these structures and erect a replacement single storey dwelling of a higher quality.
- 5 Whilst the existing buildings are able to be converted, as confirmed by the Council previously, the applicants are keen to make some modest changes to the design of the dwelling, including a modest increase in overall height of just 750mm at its highest point. This will allow a dwelling of an improved external appearance while retaining the circular roof profile which is a characteristic of the existing Anderson shelter.
- 6 The design approach is to construct a building with the appearance of two Anderson shelters conjoined as a more aesthetically pleasing development offering improved accommodation.
- 7 The footprint will slightly increase in the south east and south western corners of the site, taking the new building in line with the footprint of the larger existing building.
- 8 The scheme includes an external terrace on the northern side, suspended above the existing hardstanding area. The approved flank elevation on this side contained no windows; the current scheme now includes two modest window features and a door leading to the terrace.
- 9 The positioning of the dwelling in the plot is unchanged, likewise the previously approved car parking and amenity areas to the front are also approved. Access to the site is also unchanged from that which has already been approved.

### **Relevant Planning History**

- 10 74/00632 - Erection of detached garage - GRANTED
- 11 99/00396 - Extensions and Alterations - GRANTED
- 12 20/01957 - Conversion of existing buildings to form a new dwelling with associated landscaping - GRANTED

### **Policies**

- 13 National Planning Policy Framework (NPPF)
- 14 National Planning Policy Guidance (NPPG)

- 15 Core Strategy (CS)
- SP1 Design of New Development and Conservation
  - SP2 Sustainable Development
  - SP5 Housing Size and Type
  - SP7 Density
  - SP11 Biodiversity
  - L08 The Countryside and the Rural Economy
- 16 Allocations and Development Management Plan (ADMP)
- EN1 Design Principles
  - EN2 Amenity Protection
  - EN5 Landscape
  - SC1 Presumption in Favour of Sustainable Development
  - T2 Parking
  - T3 Provision of Electrical Vehicle Charging Point

### Constraints

17 The following constraints apply;

- Metropolitan Green Belt

### Consultations

18 Knockholt Parish Council - Objection for the following reason:

‘The current application is based on an existing dwelling in the Green Belt but in fact the situation is that approval exists for conversion of existing structures. The current application would potentially allow up to 50 percent increase and alteration in the structure as it will be a replacement build. We would expect that current Green Belt policies would apply to the existing situation regarding bulk, height, scale and form. We need to reiterate our comments on the previous application 20/01957/FUL regarding the fact that the dwelling should not have its own hereditament and should remain ancillary to the main domicile. We are aware of the applicant’s concern regarding the position of the toilet on the previous application, but we feel that this could have been addressed with only minor alterations to the original application’.

19 Natural England - No Objection

20 Environment Agency - No Comments

21 KCC Ecology - No objection recommends conditions relating to precautionary mitigation measures and biodiversity enhancements

22 SDC Environmental Health - No objection recommends a pre-commencement condition relating to a contaminated land investigation

23 SDC Tree Officer - No objection recommends tree protection condition

## **Representations**

24 Three representations of support received and one stating no objection.

## **Chief Planning Officer's appraisal**

25 The main planning consideration are:

- Principle of Residential Development and impact on the Green Belt
- Impact on the Street Scene and Landscape
- Impact on Residential Amenity
- Impact on Parking & Highways
- Ecological Issues
- Other Issues

## **Principle of Residential Development and impact upon the Green Belt**

26 Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.

27 Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- Application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (footnote 6); or
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

28 Footnote 6 relates to a variety of designations, including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

29 Whilst the NPPF places an emphasis on development on previously developed land, it does not preclude other land, including garden land, from being developed for residential use, provided such development is in suitable locations and relates well to its surroundings.

30 Para 122 of the NPPF (in part) states that planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an areas prevailing character and setting (including residential gardens) or of promoting regeneration and change.

- 31 Using land efficiently is still a key consideration in planning. Accordingly, when assessing the availability of suitable land for development in any given area and when considering the desirability of using land efficiently, well-designed garden land and infill schemes can still be considered where they are of high quality and they are deemed to be appropriate.
- 32 The Core Strategy and Allocations and Development Management Plan both contain policies to protect the character of local areas, but neither document sets out any express aim to resist inappropriate development of residential gardens.
- 33 The development would be sited outside the confines of any existing settlement, but would be located nearby the existing dwelling; Linwood, and the neighbouring property to the south west known as Cherry Cottage. The dwelling is located within the Green Belt and is located outside the defined rural settlement, as such Policy LO8 is applicable here.
- 34 As set out in paragraph 145 of the NPPF, new buildings in the Green Belt are inappropriate development. There are some exceptions to this, however, it is not considered that this proposal meets any of these exceptions.
- 35 Paragraph 143 states that where a proposal is inappropriate development in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances.
- 36 Paragraph 144 of the NPPF advises we should give substantial weight to any harm to the Green Belt. Very special circumstances 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. Therefore, the harm in principal to the Green Belt remains even if there is no further harm to openness because of the development.
- 37 Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Even if there is absence of harm to openness, there can be harm in principal to the Green Belt from inappropriate development.
- 38 Taking the above into consideration, the proposal would represent inappropriate development within the Green Belt. A case of Very Special Circumstances has been advanced which is considered below.

### **Impact on the Street Scene and Landscape**

- 39 Policy SP1 of the 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.
- 40 Core strategy L08 states that the extent of the Green Belt will be maintained. The countryside will be conserved and the distinctive features

that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible

- 41 Policy EN1 of the ADMP requires development to respond to the character of the area and provide adequate parking, amongst other things. The proposed new dwelling would have only a very limited visual impact on the wider character of the area or the landscape appearance of the site, as set well back from the road frontage and well screened along all boundaries by dense tree foliage. The proposal would represent a sympathetic, high quality design that reflects local vernacular and as such preserves the appearance of the site and the locality in general. Whilst the new dwelling does propose a modest increase in height over the existing buildings, this would not be widely visible.
- 42 Views from the public footpath to the north would be very limited and consider the proposed development would not become a prominent feature within the public realm.
- 43 Landscaping is largely to be retained, which is already fairly extensive. New hedge planting is proposed along the boundaries. The proposed residential curtilage would be modest and well constrained. Taking into consideration of the above, the proposed development would conform to policies SP1, L08 of the Core Strategy and EN1 of the ADMP.

#### **Impact on Residential Amenity**

- 44 Policy EN2 of the ADMP seeks to protect residential amenity. The only neighbouring properties are Cherry Cottage located approx. 25m to the south-west and Fairfield over 80m to the north-east. Both are well screened by dense, established foliage and there would consequently be no direct visual impact from the proposals on these properties, nor would the development result in a loss of privacy or loss of light.
- 45 Furthermore, the proposed dwelling would be approx. 20m from the rear elevation of Linwood, and as such, is not considered to have a detrimental impact on the residential amenity to this property either.
- 46 Though the proposed residential use may result in some noise and disturbance, including that from associated vehicular activity, however it is considered that this is unlikely to result in significant loss of amenity. Subject to landscaping and boundary treatments, there would be no loss of privacy to neighbouring occupiers. Overall, the development would comply with Policy EN2 of the ADMP.

#### **Impact on Parking & Highways**

- 47 Paragraph 109 explains that “Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on

highway safety, or the residual cumulative impacts on the road network would be severe.”

- 48 Policy EN1 of the ADMP requires satisfactory access and parking. Policy T2 requires satisfactory parking in accordance with set standards. It is not considered that the development would generate significant traffic generation from a single additional dwelling would adversely impact highway conditions to the degree that would fail the test of paragraph 109 of the NPPF.
- 49 There would be adequate off street parking provision on site and an electric vehicle charge point can be secured by condition. As such the development would comply with the above-mentioned policies.

### **Ecological Impacts**

- 50 In summary, there is legislation which requires the Local Planning Authority to have regard to conserving biodiversity and to consider the potential ecological impacts of a proposed development and provide enhancement where possible.
- 51 Policy SP11 of the Core Strategy states that the biodiversity of the District will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity.
- 52 The application is supported by an Ecological Impact Assessment. As highlighted within the ecology report, there are several ecological considerations regarding the proposed development. Whilst not requiring direct mitigation measures, precautionary measures have been proposed regarding:
- The ancient woodland in close proximity to the northern boundary
  - Foraging and commuting bats.
  - Dormice, badgers, hedgehogs and nesting birds.
- 53 The implementation of precautionary mitigation measures and biodiversity enhancements can be secured by condition. In light of the above, subject to suitable conditions, the proposals would comply with policy SP11 of the Core Strategy.

### **Other Issues**

- 54 It is noted that Environmental Health Officer has raised concerns with regard to potential contamination. It is unclear what the history of use of the buildings is, other than possibly previously in connection with the use of the associated land as a small holding. However, this ceased many years ago and the buildings and land have remained in ancillary residential use for a considerable time. Further investigation could be subject to condition and, if necessary, remediation.

## Community Infrastructure Levy

- 55 The proposals would be CIL liable and an exemption is sought for a self-build dwelling. As a new dwelling, the proposals would be CIL liable. However, the applicant has claimed a self-build exemption. The self-build exemption for housing can only be claimed if the person making that claim has in accordance with Section 54B(2)(a)(ii) of the regulations: assumed liability to pay CIL in respect of the new dwelling, whether or not they have assumed liability to pay CIL in respect of other development.
- 56 The applicant is claiming exemption for a self-build dwelling within the definition in Regulation 54A. A person is eligible for an exemption from liability to pay CIL in respect of a chargeable development, or part of a chargeable development, if it comprises self-build housing (or self-build communal development).

Additional criteria for exemption	Yes / No
Has the development commenced?	No
Has the claimant for exemption assumed liability to pay CIL for the dwelling subject of the claim for exemption, with the submission of an Assumption of Liability form?	Yes
Is more than one person assuming liability to pay CIL?	Yes

- 57 The applicant has completed all the declarations on the exemption claim form and has assumed liability for CIL. The development has not commenced on site. I am therefore satisfied that the persons claiming liability and seeking exemption, Mr S & Mrs S Fowler are exempt from CIL for planning permission reference: 20/03245/FUL.

## Case for Very Special Circumstances

- 58 Para 144 of the NPPF states that when considering any planning application, we should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by any other considerations.
- 59 In this case the harm has been identified as:
- Inappropriate development in the Green Belt
- 60 The possible very special circumstances have been identified as:

- As mentioned, the applicant's 'fallback' position is to construct the development as already approved. This would then represent the 'original' building in the terms of Policy GB4 of the ADMP. It is the case, therefore, that the approved building could be constructed and then subsequently replaced with a building 50% larger. This would be a policy compliant and appropriate development, resulting in an increased impact on the Green Belt.
- Furthermore, the approved dwelling could also be constructed, and permission sought to extend it by 50%. This, again, would accord fully with the requirements of Policy GB1 of the ADMP and would result in a potentially far larger building.
- The extant approval also allows a dwelling to be created which retains all 'Permitted Development' rights for extensions and alterations. This is a material consideration. While the Planning Policy Guidance is clear that the blanket removal of PD rights rarely meets the test of necessity or reasonableness, this is something that may be a consideration upon an approval of this application.

61 In reviewing this case, it is acknowledged that the development that could be built on the site is a material consideration that can be given some weight.

62 The applicant has submitted an additional supporting statement in lieu of very special circumstances and it is considered that if the current application were to be refused that there is a strong intention of implementing and constructing the extant planning permission.

63 Taking these factors into account, very special circumstances therefore exist to justify the development. In consequence, the very special circumstances submitted are identified as being sufficient to outweigh the harm to the Green Belt in principle and to its openness.

## Conclusion

64 The proposal would represent inappropriate development within the Green Belt. The very special circumstances put forward are however, considered sufficient to outweigh this harm.

65 The proposal would incorporate an appropriate design that would not impact upon local amenities and would conserve the character of the area and landscape generally. The proposals would have an acceptable impact on the amenities of neighbouring occupiers. The impact on highway conditions would be acceptable.

66 Overall, there are no other material considerations to indicate otherwise and as such the proposed development would comply with local and national planning policies.

67 It is therefore recommended that planning permission is GRANTED

### **Background Papers**

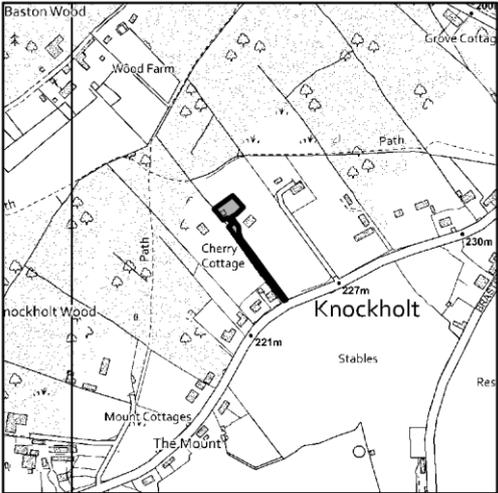
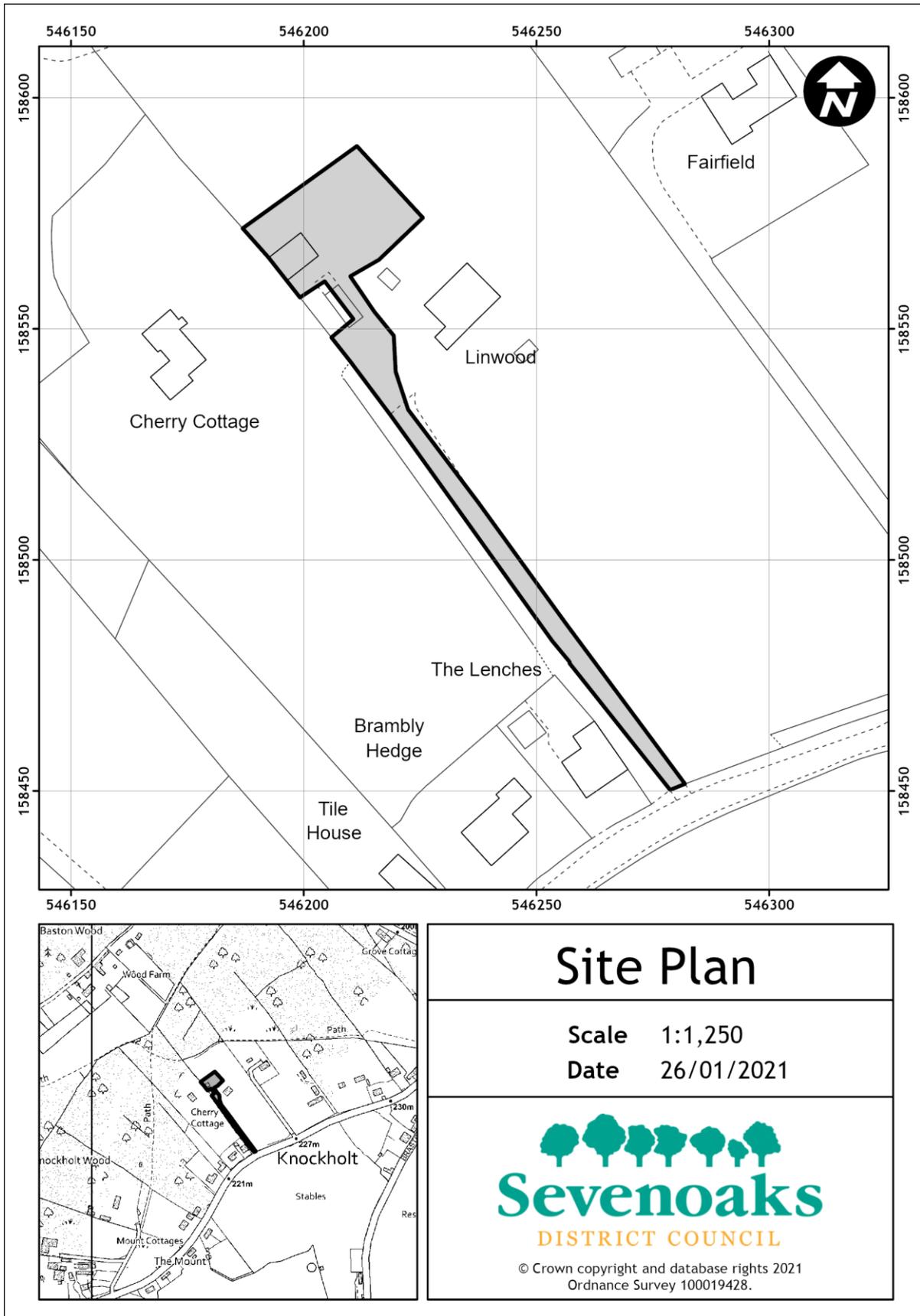
Site and Block Plan

Contact Officer(s) Charlotte Van De Wydeven 01732 227000

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

[Link to application details:](#)

[Link to associated documents:](#)



# Site Plan

Scale 1:1,250  
Date 26/01/2021



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Ordnance Survey 100019428.

