

Proposal: Variation of condition 3 of 22/01084/HOUSE for 'Rear extension and removal of front porch. Replacement of existing outbuilding with a new outbuilding' with amendment to substitute plans for amended plans for lowering height & parapet wall.

Location: 3 Abbotswood Bungalows, London Road, West Kingsdown
Sevenoaks Kent TN15 6AR

Ward(s): Fawkham & West Kingsdown

Item for decision

This application has been called to Committee by Councillor Bulford for the following reasons: i) Impact on neighbouring amenities; ii) Impact on the character of the area through bulk and form; and (iii) Visual intrusion for the neighbouring property.

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

1) The alterations to planning permission 22/01084/HOUSE hereby permitted shall be completed before the expiration of three months from the date of this permission.

To ensure that the development on site would be in accordance with both local and national policies as the in-situ development is unauthorised.

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 hereby permitted shall be carried out in accordance with the following approved plans and details: PA1; PA2 Rev D; PA3 Rev D; PA5 Rev D; Application Form.

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

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting those orders), no development falling within Classes A, AA, B, C, D or E of Part 1 of Schedule 2 to the said Order shall be carried out or made to the dwelling without the grant of planning permission by the local planning authority.

In order to protect the openness of the Green Belt in accordance with Policy GB1 of the Sevenoaks Allocations and Development Management Plan and the National Planning Policy Framework.

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 of an end of terrace bungalow located directly on London Road. The site has a modest sized rear garden which wraps around the rear garden of the directly adjacent property, no.2 Abbotswood Bungalows. The dwelling itself is of modest scale and has a single storey.

Description of proposal

- 2 This application seeks a variation of Condition 3 of planning permission 22/01084/HOUSE which was granted in June 2022 for a rear extension, removal of front porch and a replacement outbuilding. The principle of the rear extension is therefore established.
- 3 The applicant submission explains that, during the course of the build, drainage concerns were raised which meant that the extension as approved by planning permission 22/01084/HOUSE could not be built.
- 4 The proposed variation of condition therefore seeks an amendment to the approved drawings for the rear extension, namely a change to the design of the roof of the rear extension from a crown roof to a flat roof with an overall decrease in height. The plans indicate that the extension would be built with a hidden gutter, draining to a soakaway in the rear garden. The length and width (footprint) of the extension would remain as approved.
- 5 The original outbuilding has been demolished and the extant permission allows for replacement by a smaller outbuilding. The principle of acceptability of the replacement outbuilding was established under the previously granted planning application 22/01084/HOUSE.

Relevant planning history

- 20/03409/LDCEX Confirmation that the existing outbuilding garden store/shed is lawful for the use ancillary to the main house REFUSE 22/01/2021
- 21/00543/LDCEX Existing outbuilding in rear garden as shed / store in connection with 3 Abbotswood Bungalows. GRANT 27/04/2021
- 22/00015/HOUSE The erection of 5m rear extension and removal of front porch. Replacement of existing outbuilding with a new smaller outbuilding. REFUSE 07/03/2022
- 22/01084/HOUSE Rear extension and removal of front porch. Replacement of existing outbuilding with a new outbuilding. GRANT 01/06/2022
- 23/02605/MMA Amendment to 22/01084/HOUSE. REFUSE 01/11/2023

- 23/03622/MMA Amendment to 23/02605/MMA related to 22/01084/HOUSE for Rear extension and removal of front porch. Replacement of existing outbuilding with a new outbuilding. REFUSE 13/03/2024
- 6 As noted above, planning permission (reference 22/01084/HOUSE) was granted on 1 June 2022 for the erection of a rear extension, removal of the front porch and the replacement of the existing rear outbuilding.
 - 7 The development was not constructed in accordance with the approved plans and a minor material amendment (23/02605/MMA) was submitted which sought planning permission for the development as built. As constructed, the flank wall abutting the boundary with no.2 Abbotswood Cottage had been increased in height by 0.6 metres (60 centimetres), to 3.4m in height.
 - 8 This application to retain the extension as built was refused for the following reason:

“The proposed amendments, by virtue of their height increase, the proposals would result in an overbearing and unneighbourly form of development that would have a detrimental impact on residential amenity and living conditions of the neighbouring property. The resulting increase in visual intrusion would be contrary to Policy EN2 of the Allocations and Development Management Plan and the National Planning Policy Framework.”
 - 9 A second minor material amendment application (23/03622/MMA) was then submitted. This proposed to slightly reduce the height of the flank wall abutting the boundary with no. 2.
 - 10 The application was refused by the Development Management Committee. The reasons for refusal were:
 - By virtue of their height increase, the development results in an overbearing and unneighbourly form of development that would have a detrimental impact on residential amenity and living conditions of the neighbouring property. The resulting increase in visual intrusion would be contrary to Policy EN2 of the Sevenoaks Allocations and Development Management Plan and the National Planning Policy Framework.
 - The development would, by virtue of their proportions, design, and scale, appear out of keeping with the character of the area and the adjoining bungalow. This would be contrary to Policy EN1 of the Sevenoaks Allocations and Development Management Plan.
 - 11 The current application proposes further amendment, which is explained in more detail below.

Policies

- 12 National Planning Policy Framework (NPPF)
- 13 Core Strategy (CS)
 - SP1 Design of New Development and Conservation

14 Allocations and Development Management Plan (ADMP)

- EN1 Design Principles
- EN2 Amenity Protection
- GB1 Residential Extensions in the Green Belt
- T2 Vehicle Parking

Constraints

15 The following constraints apply:

- Metropolitan Green Belt

Consultations

16 Parish Council

“Parish Council objects to this application due to the loss of the amenity to the neighbours in their small garden”

Representations

17 4 letters of objection have been received relating to the following issues:

- Separation of raised patio and extension under application
- Loss of light
- Floor levels inaccurate
- Out of keeping with the character of the area
- Plans do not match built form on site and are incorrect in terms of measurements
- Guttering and impact of rainwater discharge on neighbouring property

Chief Planning Officer's appraisal

18 The application has been called to Committee for reasons relating to the loss of residential amenities; impact of proposals bulk and form; and visual intrusion for neighbouring properties.

19 This application is for a variation of condition. An application to 'vary' a condition of planning permission (as referred to in the Government's Planning Practice Guidance) is made under Section 73 of the Town and Country Planning Act 1990 (as amended) (the 'TCPA') and can be a way of varying a condition that lists the approved drawings, in order to make amendments to the approved development. Under such a variation of condition, the TCPA requires that the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted; the proposed amendments may not alter the description of the development approved.

20 The main planning considerations are:

- Design and impact on the character of the area (Policy EN1)
- Impact on neighbouring amenities (Policy EN2)
- Impact on the Green Belt (Policy GB1)

Design and impact on the character of the area

- 21 The relevant policies relating to design and the character of the area are EN1 of the ADMP, SP1 of the Core Strategy and The Residential Extensions SPD is also applicable.
- 22 As noted, the principle of a rear extension in this position has been established by the 2022 planning permission. As with that approved, the proposed amended rear extension would be marginally visible in the street scene as a result of its projection beyond the side wall of the existing dwelling. However, the proposed extension would be single storey with a lower eaves height than the approved scheme. It would be set back a considerable distance from the front elevation of the dwelling and the highway. Therefore, the extension would not appear unduly dominant or visually intrusive in the street scene.
- 23 The amendments would result in the roof of the extension being reduced in height from 3.3 metres (ridge level to pitched roof as approved) to the proposed flat roof height of 3.1m, sloping down to 2.98 on the boundary with no.2. Changing the design to a flat roof would slightly reduce the overall visual bulk and massing of the extension.
- 24 The proposed amendments would remain subservient to the existing bungalow and would appear proportionate. The overall scale and massing of the proposals would be lesser than that of the approved extension. The additional impact on the character of the dwelling would thus be considered to be limited.
- 25 The proposals would not result in any material change to the character of the area beyond what was considered under planning permission 22/01084/HOUSE and, overall, would reduce the scale of the built form on site. The proposed amendments would thus be considered to comply with Policy EN1 of the Allocations and Development Management Plan.

Impact on Neighbouring Amenities

- 26 Policy EN2 of the ADMP and our Residential Extensions SPD are relevant in the consideration of this application. Policy EN2 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 development does not result in, and is not located in areas where occupiers of the development would be subject to, 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.”
- 27 The proposed development as amended would not include any side windows offering views of neighbouring properties. The existing north-west facing side window which overlooks the area of private amenity of no.2 would be removed. Overall, the proposed amendment would not result in any increased harm to privacy of the neighbouring dwellings.
- 28 As approved the height of the flank wall abutting no. 2 Abbotswood Bungalows was approximately 2.9m high. As built, this was raised by inclusion of a parapet wall approximately 0.6m. It is now proposed to amend the roof design to a flat roof and incorporate a reduction in the height of the flank wall so that it would be no higher than the approved scheme.

- 29 It has been acknowledged that what has been built on site is not considered acceptable in terms of local policy EN2 of the Allocations and Development Management Plan. This application seeks to amend what has been built and would need to be implemented in accordance with the submitted plans. A condition is proposed to ensure this would be implemented within a limited time-period as per Condition 1.
- 30 The main consideration is whether the proposed have any greater impact on the neighbouring property than the granted planning permission.
- 31 The rear extension would fail the 45 degree test on its floor plan but would pass the test on its elevation in relation to the rear windows of the adjoining property, 2 Abbotswood Bungalows. In line with BRE guidance, the proposal would pass the test overall and would not result in a loss of light that would be considered harmful to the living conditions of current and future occupiers of the neighbouring property.
- 32 It is also noted that the nearest window of 2 Abbotswood Bungalows does not serve a habitable room (toilet). The 45 degree light test is shown clearly on the submitted plans and the window serving the habitable bedroom of no.2 would not be impacted. There would thus be no loss of light as a result of the proposed amendment.
- 33 As mentioned previously, the maximum height of the roof would be lowered as a result of the proposals, and the height on the wall on the boundary with no.3 Abbotswood would be significantly reduced from its current height. I consider the overall scale, bulk and massing would have no greater impact on the amenities of neighbouring occupiers than the extant permission.
- 34 It is acknowledged that the proposed rear extension would be a large addition and that there would be oblique views of the extension from the rear windows of the immediate neighbouring properties, 2 Abbotswood Bungalows and Aitches, as well as their rear gardens. This position was accepted under the approved 2022 planning permission. On the basis that these neighbouring properties would not directly overlook the extension as their rear windows face towards their own gardens, I do not consider that the development would be unduly harmful to the living conditions of the occupiers of these properties.
- 35 It is also important to note here that, as set out in the Residential Extensions SPD, the planning process cannot protect a view from a private property. The massing of the roof would be reduced overall as compared to the granted planning permission. The proposals submitted as part of this application would result in a lesser degree of visual intrusion than the approved planning permission 22/01084/HOUSE due to the change in roof form. The flat roof would appear less visually intrusive and, overall, the degree of visual intrusion would be decreased as a result of the proposed amendment.
- 36 In terms of impact of light on the neighbouring garden, the Right to Light Act is not a material planning consideration. It is separate private and civil matter between neighbouring properties.
- 37 The planning application has been assessed against the Sevenoaks Residential Extensions SPD and will not result in a significant loss of background daylight under the 45-degree test, as it passes on elevation. The proposal lies to the southeast of the neighbouring property, and potentially will affect sun light to the garden area during the early to mid-morning hours. The highest point of the new roof has been decreased compared to the approved scheme. The proposal will result in a lesser

impact on sunlight to the garden area of no.2 compared to the approved plans due to the lower overall height of the roof. The proposals under this application would result in increased sunlight access compared to the granted planning permission.

- 38 Overall, the impact of the proposed amendments would not be no greater than the approved scheme. The light test was conducted and was passed, noting that the window which would be modestly impacted is an obscured toilet/bathroom window.
- 39 In light of the above, it is considered that the proposals would comply with Policy EN2 of the Allocations and Development Management Plan and the Residential Extensions SPD.

Impact on the Green Belt

- 40 As set out in paragraph 154 of the NPPF, new buildings in the Green Belt are inappropriate development. There are some exceptions to this, such as “c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.”
- 41 Paragraph 152 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.
- 42 Paragraph 153 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 principle to the Green Belt remains even if there is no further harm to openness because of the development.
- 43 Openness is an essential characteristic of the Green Belt and both spatial and visual impacts on openness should be considered. Openness is about freedom from built form although it can have a visual element. Even if there is absence of harm to openness, there can be harm in principle to the Green Belt from inappropriate development.
- 44 The proposals would not result in any increase in footprint of the extension as approved under application 22/01084/HOUSE. The extension would be contained to the rear of the dwelling and would sit amongst an existing row of residential buildings rather than being situated in an isolated location or the open countryside. As such, it is considered that the scale and size of the extension would not appear to encroach on the open nature of the countryside beyond nor result in unrestricted sprawl in the Green Belt. The overall sense of openness within the wider area and the surrounding countryside, would be preserved.
- 45 The total floor space would exceed the 50% uplift limit, however, it has been determined that there are very special circumstances that would clearly outweigh any harm, as the size of the extension could be justified by the removal of the existing large outbuilding and the erection of a new outbuilding of a smaller size. The following section summarises the case for very special circumstances as set out in relation to the granted planning permission 22/01084/HOUSE.
- 46 “The floor space of the existing dwelling is 89.94sqm and the floor space of the existing outbuilding is 64.8sqm. The total floor space on site pre-development was 154.74sqm.

- 47 By comparison, the floor space of the dwelling, following the proposed extension would be 125.48sqm, and the floor space of the smaller outbuilding would be 28sqm. The total floor space on site as a result of the proposed development would be 153.48sqm. Therefore, there would be an overall reduction in floor space on site by 1.26 sqm.
- 48 Potentially of greater significance than the slight reduction in built footprint on the site, is the proposed significant reduction in the scale of the outbuilding. The reduction in scale would not only reduce the prominence of the outbuilding but would also reduce the apparent spread of built development across the site. For these reasons, the proposals represent an opportunity to reduce the scale and spread of built development on the site, which would clearly outweigh the harm from the proposed addition to the principal dwelling.”
- 49 As the proposed amendments would not result in any additional footprint or floor space and the alterations to the roof form would reduce its overall bulk, the case for very special circumstances remains as determined.
- 50 As before, in order to control future development on the site and protect the openness of the Green Belt, it is considered necessary to include a condition that removes permitted development rights for extensions and outbuildings.

Other issues

Human Rights Implications

- 51 In considering this application, SDC must consider its obligations under the European Convention on Human Rights (ECHR) is engaged. Article 8(1) provides that everyone has the right to respect for his private and family life, his home and his correspondence.
- 52 I note that this is a qualified right, as Article 8(2) allows interference by a public authority with the right to respect where the interference accords with the law and is necessary in a democratic society for the wider public interest, including for the protection of rights and freedoms of others.
- 53 It is evident, nonetheless, that the refusal of the current planning permission would represent an interference with the rights of the applicant under Article 8 of the Human Rights, leaving the family unable to complete their build and with accommodation that is not suitable for family life in the long term, also leaving them and their neighbours in the midst of a construction site. Given the findings above, the circumstances of the family add further weight in favour of approving the proposed development.

Inaccurate plans and not in accordance with built form

- 54 It is acknowledged that the application is retrospective, as development has been carried out on site and does not therefore match the approved plans and drawings. This minor material amendment application would seek to amend the approved plans which would also result in the built form on site to be altered to match the submitted plans under this current application.
- 55 The measurements and details of the elevations would need to match that of the plans as a condition would be added to ensure that all future development would be in accordance with the submitted details. From the previous site visit carried out by

two officers of this Council, measurements were taken that suggested the measurements included on the submitted plans are consistent with the submitted details. Should it be found that the development is not constructed in accordance with the attached condition, enforcement action may be taken.

Raised Patio

- 56 Concerns have been raised in regard to the raised platform which has been erected on site and does not have planning permission. It is noted that, as the raised platform would not fall within the description of development approved by virtue of planning permission 22/01084/HOUSE, it cannot be considered under section 73 of the Town and Country Planning Act 1990. It would need to be subject to a planning application in its own right. This is a position SDC officers are aware of and the submission confirms it is the intention of the applicant to make a separate submission in this regard. The raised patio does not constitute a planning consideration for the proposals submitted as part of this application.

Guttering and rainwater

- 57 It is noted that rainwater disposal and guttering do not fall within planning legislation and are a matter for building control. The submitted plans, however, show the provision of a hidden gutter with the run-off being located in a soakaway within the garden of no.3.

Community Infrastructure Levy (CIL)

- 58 The application not liable for the payment of CIL.

Conclusion

- 59 The proposed amendments would not alter the nature of the development and would comply with the relevant local and national Policies.
- 60 It is therefore recommended that this application is approved.

Background papers

- 61 Site and block plan

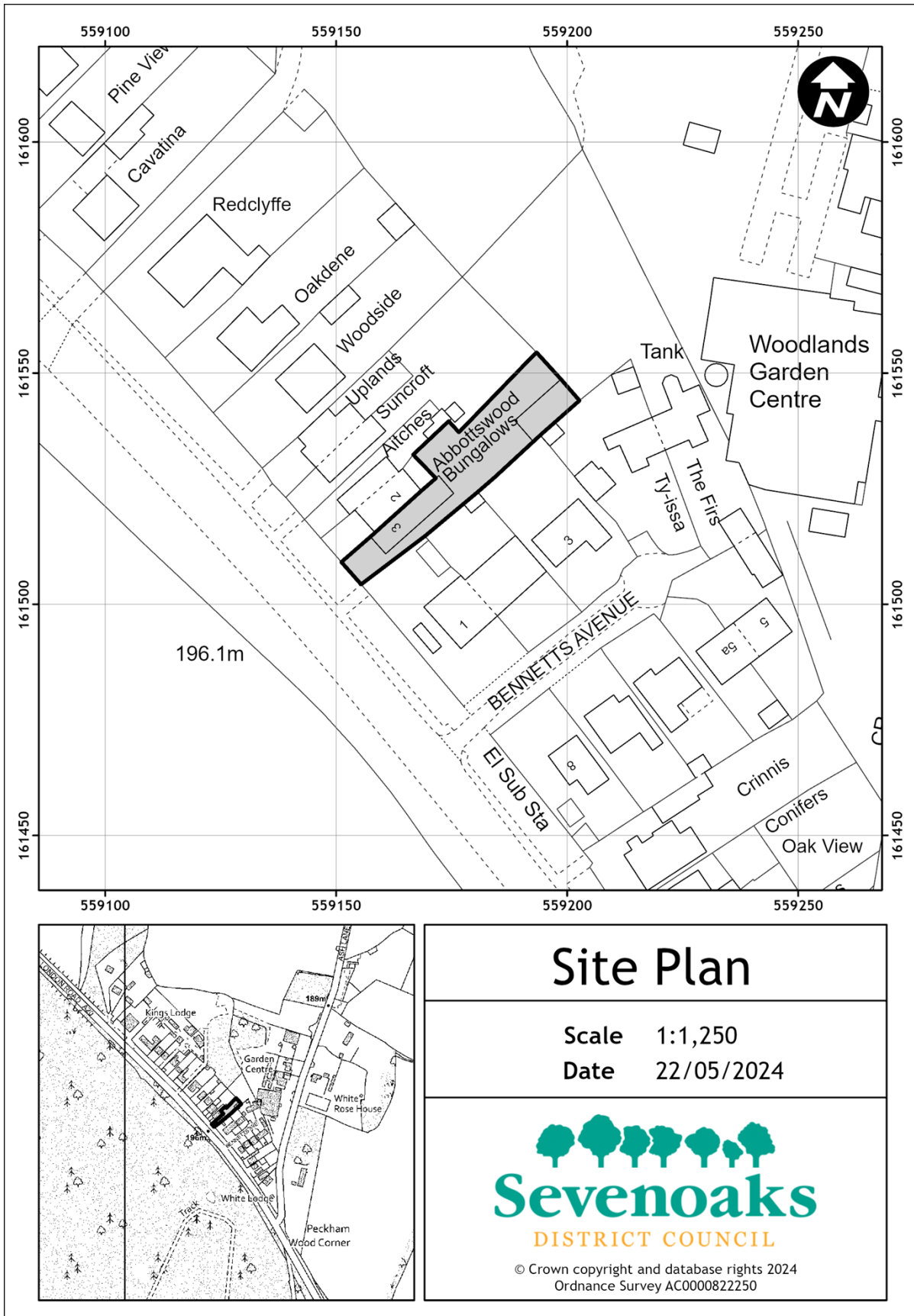
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[Link to application details:](#)

[Link to associated documents:](#)



Site Plan

Scale 1:1,250

Date 22/05/2024



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Ordnance Survey AC0000822250

PROPOSED BLOCK PLAN

