

Report of the Chief Executive

<b>APPLICATION NUMBER:</b>	<b>24/00835/FUL</b>
<b>LOCATION:</b>	<b>The Secret Garden Attenborough Day Nursery and Pre School, Shady Lane, Attenborough, Nottinghamshire</b>
<b>PROPOSAL:</b>	<b>Construct single storey detached classroom and 3m high screening</b>

The application has been called in to Planning Committee by Councillor P A Smith.

1. Purpose of the Report

The application seeks planning permission to construct a single storey detached classroom and 3m high screening.

2. Recommendation

**The Committee is asked to RESOLVE that planning permission be granted subject to conditions outlined in the appendix.**

3. Detail

The application seeks planning permission to construct a single storey detached classroom and 3m high screening.

The building is a detached property (current use as a day nursery). There is also an attached flat roofed single storey extension and canopy. To the rear of the building there is a flat roofed detached storage building. The site has a play area to the east.

Neighbouring to the east is Attenborough Tennis Club, bounding the site playground is a car park with the tennis pavilion north east of this, bounding along the rest of this boundary of the site are tennis courts with high mesh fencing.

Neighbouring to the south west is no. 1 The Strand, which is a detached dwelling with an attached garage that is located close to the boundary. Both buildings are set away from the common boundary and are separated by a 1m+ high wall. This increases to 2m further toward the rear, there is then some fencing and landscaping bounding to the proposed site of the cabin. The main nursery building has windows facing this boundary, the dwelling has no ground floor window facing the site.

The proposal site is situated within the Attenborough Conservation Area. The immediate area is generally residential with detached houses, though the lane provides access to the nursery, tennis club, a place of worship and other sporting facilities.

The main issues are its impact in terms of design, including impact on the Conservation Area; massing and scale; visual and neighbour amenity,

including in terms of privacy, noise, disturbance and smells; and highway safety and access.

4. Financial Implications

The comments from the Head of Finance Services were as follows:

There are no additional financial implications for the Council with the costs/income being within the normal course of business and contained within existing budgets. Any separate financial issues associated with S106s (or similar legal documents) are covered elsewhere in the report.

5. Legal Implications

The comments from the Head of Legal Services were as follows:

The Legal implications are set out in the report where relevant, a Legal advisor will also be present at the meeting should legal considerations arise.

6. Data Protection Compliance Implications

Due consideration has been given to keeping the planning process as transparent as possible, whilst ensuring that data protection legislation is complied with.

7. Background Papers

Nil.

## Appendix

1. Details of the application

- 1.1 The application seeks planning permission to construct a single storey detached nursery room and 3m high screening.
- 1.2 The detached nursery room would be limited to between 6 x babies and 10 x 2 year olds. It would have one room and w/c facilities including a baby change and a sink. The cabin would be situated to the south east corner of the site, it would be a width of 7m and a depth of 4.3m. Windows and doors would be limited to the front elevation, facing north west into the site, with two full height windows either side of the central bi-folds doors. The cabin roof would have a slight lean, and a total cabin height of 2.5m.
- 1.3 The cabin would be fixed into the ground, and raised off the ground by 1m, making the total height above ground level of 3.5m. To access the nursery room there would be steps on the front north east part which would lead onto a front veranda, which would have a depth of 1.2m.
- 1.4 A screening trellis would be installed along the boundary wall with no. 1 The Strand at a height of 1m above the existing boundary wall and attached by supporting post, with a total height above ground level of 3m.

2. Site and surroundings

- 2.1 The building is a detached property (current use as a day nursery), it was originally a sports pavilion, and then became a Preparatory School. There is also an attached flat roofed single storey extension and canopy. To the rear of the building there is a flat roofed detached storage building. The site has a play area to the east.
- 2.2 Neighbouring to the east is Attenborough Tennis Club, bounding the site playground is a car park with the tennis pavilion north east of this, bounding along the rest of the site are tennis courts with high mesh fencing.
- 2.3 Neighbouring to the south west is no. 1 The Strand, this is a detached dwelling with an attached garage nearby to the boundary. Both building have access along this common boundary and are separated by a 1m+ high wall. This increases to 2m along the rear, there is then some fencing and greenery bounding to the proposed site of the cabin. The site building has windows facing this boundary, the dwelling has no ground floor window facing the site.
- 2.4 The proposal site is situated within the Attenborough Conservation Area. The immediate area is generally residential with detached houses, though the lane provides access to the nursery, tennis club, a place of worship and other sporting facilities.

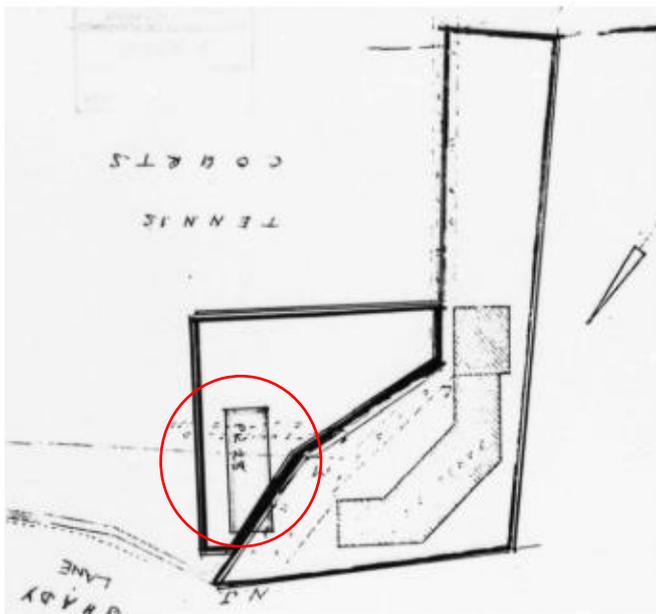
3. Relevant Planning History

3.1 There have been previous planning applications at this property:

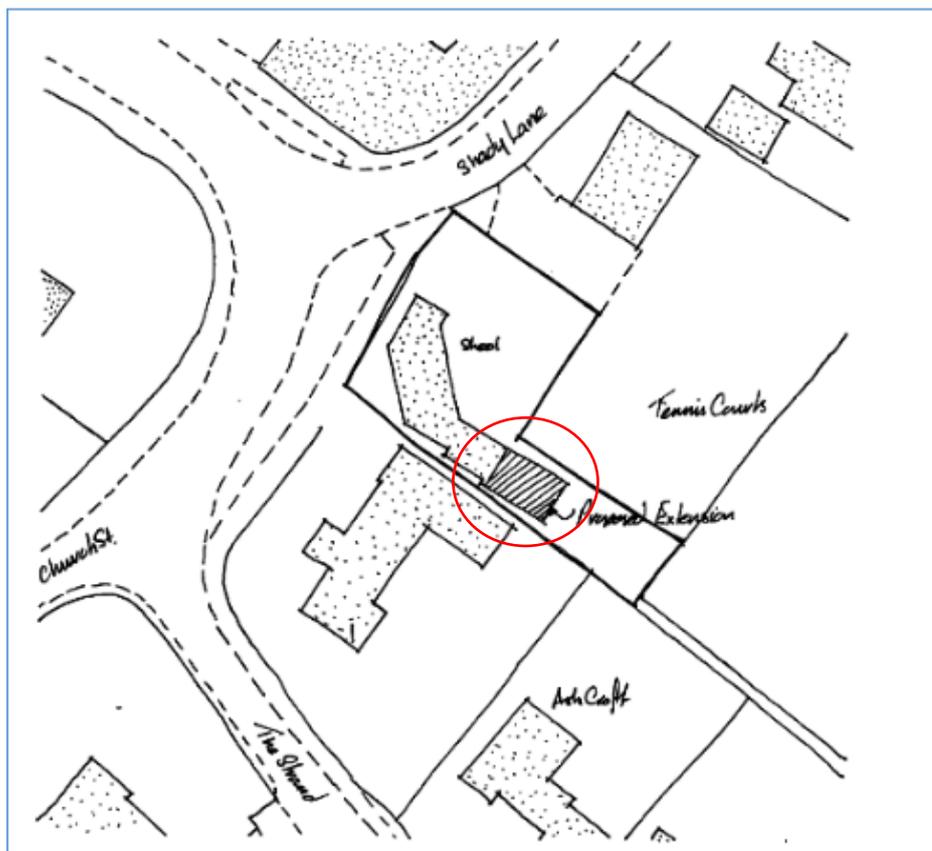
92/00089/FUL      ERECT PORTABLE CLASSROOM UNIT      REF

07/00523/FUL      Construct extension to rear of property      REF

24/00300/FUL      Construct single storey detached classroom      REF



Planning ref. 92/00089/FUL to install a portacabin, towards Shady Lane, as a classroom was refused on design and character in the Conservation Area and parking (portacabin circled red).



Planning ref. 07/00523/FUL to construct a rear extension to the existing building was refused on character and appearance in Conservation Area, and parking, (extension circled red).

- 3.2 A similar proposal to the current application was refused planning permission on 24/00300/FUL, for the following reason:
- The site lies within Flood Zone 2 and 3 and the submitted Flood Risk Assessment (FRA) fails to demonstrate how the proposal would be protected from flooding. Specifically, the submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The application is therefore not in accordance with Section 16 of the NPPF (2023), Policy 1 of the Aligned Core Strategy (2014) and Policy 1 of the Broxtowe Local Plan (2019).

4. Relevant Policies and Guidance

4.1 **Broxtowe Aligned Core Strategy 2014:**

The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy A: Presumption in favour of sustainable development
- Policy 1: Climate Change
- Policy 2: The Spatial Strategy

- Policy 10: Design and Enhancing Local Identity
- Policy 11: The Historic Environment
- Policy 17: Biodiversity

#### 4.2 **Part 2 Local Plan 2019**

The Council adopted the Part 2 Local Plan on 16 October 2019.

- Policy 1: Flood Risk
- Policy 17: Place-Making, Design and Amenity
- Policy 23: Proposals Affecting Designated and Non-Designated Heritage Assets
- Policy 31: Biodiversity Assets

#### 4.3 **National Planning Policy Framework (NPPF) 2024**

- Section 2: Achieving sustainable development
- Section 4: Decision-making.
- Section 12: Achieving well-designed places.
- Section 14: Meeting the challenge of climate change, flooding and coastal change
- Section 16: Conserving and enhancing the historic environment.

### 5. Consultations

5.1 **Environment Agency** – no objections subject to a condition being included in relation to the submitted flood risk assessment.

5.2 **Conservation Officer** – no objections. I note the previous proposal - which I did not object to - was rejected on flooding issues. The resubmission, which has marginally revised internal floor space and external footprint, is still considered acceptable. It is single storey, with an acceptable design code and it will not unduly harm the character and appearance of the Attenborough Conservation Area. It is only deemed necessary to apply standard conditions to ensure works are carried out in accordance with the proposed plans.

- no objections to this proposed screening - either option 1 or option 3.

5.3 Initially 4 neighbours were consulted on the application, and a Site Notice posted. The application was then amended to include the screening with 9 neighbours and initial contributors consulted and a site notice posted.

5.4 The initial consultation resulted in 8 objections. The re-consultation had 6 responses, these comprising 4 objections and 2 in support.

Objections summarised as:

- Traffic and parking.
- Design and layout.
- Privacy.
- Over-development.

- Disabled access.
- Noise and disturbance.
- Not in keeping with Conservation Area
- Potential harm to tree.

**5.5 Councillors**

- Councillor H Faccio – comment in support of the proposal, wants to make it clear that her son currently attends this day nursery but at a different site, Summarised:
  - Nursery is a valuable amenity to the local community.
  - Highly rated by Ofsted.
  - The nursery is not based on a large site, with the proposal making intelligent use of the space available.
  - The proposal has been sympathetically designed in mitigation of the Conservation Area, Flood Risk and maintaining privacy of the neighbours and attending children.
  - The applicant has worked with the Local Planning Authority to provide an achievable proposal.
  - As a nursery for babies and toddlers any incidental overlooking into neighbouring gardens would be minimal.
  - Not being able to proceed with the proposal would have a negative impact on working families with young children in the area – with demand for nursery places high.
- Councillor Tyler J Marsh –No comments received
- Councillor P A Smith - Attenborough and Chilwell East Ward – Requested the application be called into Committee because of concerns regarding impact on neighbours and loss of amenity.

**6. Assessment**

**Revised Scheme**

6.1 The application was previously refused on ref. 24/00300/FUL, this was to construct a single storey detached classroom. This application specifically includes 3m high boundary screening and the detached classroom has been raised off the ground to mitigate the previous reason for refusal, which was in respect of flooding.

**Principle of development**

6.2 The site whilst historically a pavilion for the neighbouring tennis club had been a preparatory school dating back to the 1990's therefore the educational use has been established for some time. Whilst similar proposals have previously been refused, one was a portacabin to the front playground and the other was a rear extension to the existing building. Both would have had reduced outside amenity space and proposed higher pupil numbers. Therefore, this proposal

can be considered significantly different to those proposals previously refused and will be assessed below.

Policy 23 of the Part 2 Local Plan and Policy 11 of the Aligned Core Strategy (2014) state that proposals will be supported where heritage assets and their settings are conserved or enhanced in line with their significance.

Paragraph 202 of the NPPF (2021) states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

### **Design and Conservation Area**

- 6.3 In terms of mass and scale, the cabin would not represent a disproportionate addition as it would be single storey, have a slight mono-pitched roof and as it would be to the rear of the site, behind the existing building it would appear subservient to this building even with the 1m rise above ground level provided, and would be considered a relatively modest overall height at 3.5m. The plot also retains covered and uncovered outdoor play areas.

The veranda would sit 1m above ground level. The steps leading up to the veranda have been placed away from the neighbouring residential boundary and the screening on the boundary wall would be of a timber nature and placed on the wall to the rear of the site, therefore not towards the public highway so visibility of the trellis would be limited outside the site.

The cabin is of a relatively simple design and will be constructed using a treated timber frame with EPDM rubber roof. The use of these materials plus finishes has been included within the submitted Design and Access submitted, and the Conservation Officer has no objection to the use of these materials within the Attenborough Conservation Area. Therefore, the proposal is considered to be of appropriate design and materials for the location within the Conservation Area, and as it would be single storey and situated away from the public highway it is considered to result in less than substantial harm to the Conservation Area.

### **Amenity**

- 6.4 The proposal would be constructed to an area of the site that is not currently in use, to the rear of the outside storage building and hemmed in by the neighbouring tennis courts and neighbouring garden. This is adjacent to the boundary with no. 5 The Strand. whilst there is landscaping on the boundary with no. 5, which is not proposed to be removed as part of the development, the building would not, even without the landscaping, have a significant impact on amenity for the occupiers of 5 The Strand.

Due to flood concerns the cabin would be raised 1m off ground level. Given the proposed use of the building for very young children and the nature of the business as a nursery, privacy would be paramount for both the nursery and for the occupiers of neighbouring property, therefore whilst there would be some incidental over-looking this is perfectly normal between neighbouring plots. In further mitigation screening would be provided along the boundary wall and will be conditioned to be maintained and retained for the lifetime of the development. The applicant has confirmed they are satisfied with the inclusion of this condition should planning permission be granted.

Therefore, the proposal is considered to have no significant impact on neighbouring occupiers in terms of amenity, including privacy and noise. As the proposed building would be single storey with fenestration only facing within the site. There would also be no significant increase in the numbers of children. Therefore, it is considered that the development would have no significant impact on surrounding neighbours.

In terms of construction of the development impacting the neighbouring tennis courts, this would be a civil matter to be addressed between the applicant and any affected party.

### **Access and Highway Safety**

- 6.5 In terms of highway safety and access, no parking exists on-site and there are parking restrictions to the immediate highway. The nursery has confirmed that they rent space at the nearby cricket ground for parking, parents are notified and can park there for drop off/ pick up.

Given the size of the proposal, the resources already in place to mitigate parking issues and that parking or drop off may also take place for neighbouring buildings it would be considered unreasonable to attribute any perceived parking issues solely to the nursery. In mitigation the site is also within a residential area and has good transport links. There would be no significant increase in the numbers of attendees. Therefore, due to the modest scale of the proposal it is considered that there would be no significant cumulative impact in terms of access or highway safety.

### **Flood Risk**

- 6.6 The application site lies in Flood Zone 3. The application was accompanied with a Flood Risk Assessment (FRA) and this has been assessed by the Environment Agency (EA), who has raised no objection to the development. Taking into account the scale of the development, and mitigation measures to ensure the building is raised to protect the users, it is considered that the proposal would not increase the flood risk for the surrounding area to any significant degree.

**Biodiversity Net Gain**

6.7 The development is subject to the de minimis exemption as it would be under 25 squares metres, being limited to hard standing and not impacting on a priority habitat.

7. Planning Balance

7.1 The benefits of the proposal are that it would be of an acceptable design and would not result in significant harm to Attenborough Conservation Area, would be an acceptable development within the Flood Zone, would not have a significant negative impact on neighbour amenity and would be in accordance with the policies contained within the development plan. The negative impact would be the lack of disabled access; however the classroom would provide a specific provision for very young children and the size of the building and the need to mitigate flood risk outweigh this, therefore it is considered that the proposal is acceptable.

8. Conclusion

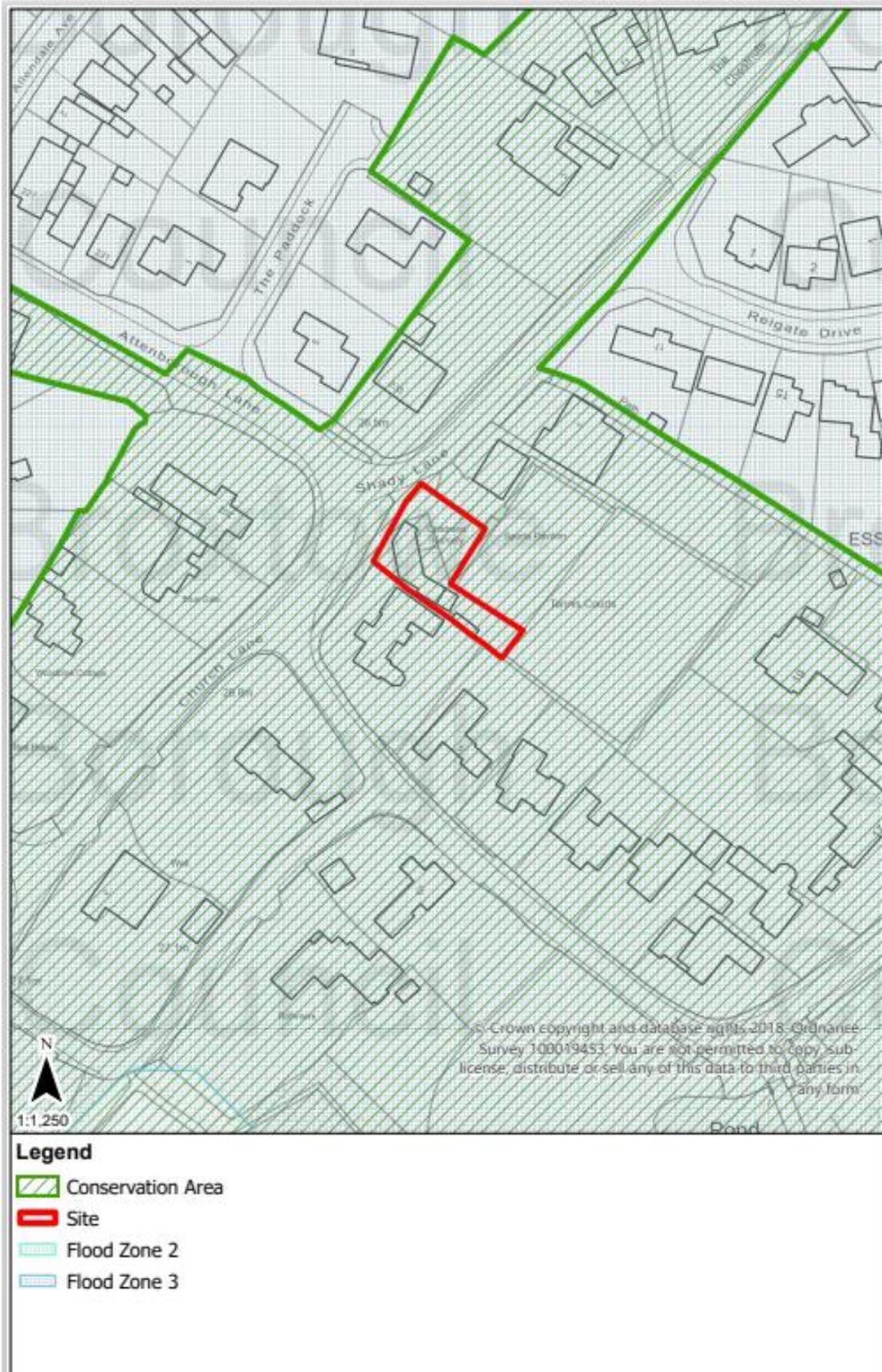
It is concluded that, having regard to the relevant policies of the Local Plan, national planning guidance and to all other material considerations including the Public Sector Equality and comments raised in representations received, the development is acceptable and that there are no circumstances which otherwise would justify the refusal of permission.

<b><u>Recommendation</u></b>	
<b>The Committee is asked to RESOLVE that planning permission be granted subject to conditions outlined in the appendix.</b>	
<b>1.</b>	<p><b>The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.</b></p> <p><b><i>Reason: To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.</i></b></p>
<b>2.</b>	<p><b>The development hereby permitted shall be carried out in accordance with:</b></p> <ul style="list-style-type: none"> <li>• <b>Site Location Plan 1 :1250 received by the Local Planning Authority on 11 December 2024, and</b></li> <li>• <b>Site Plan (1), Floor Plan (3), Front (5), Left (7), Right (8) and Rear (6) Elevations, and Roof Plan (4) received by the Local Planning Authority on 10 March 2025, and</b></li> <li>• <b>Trellis Screening Details received by the Local Planning Authority on 13 May 2025.</b></li> </ul>

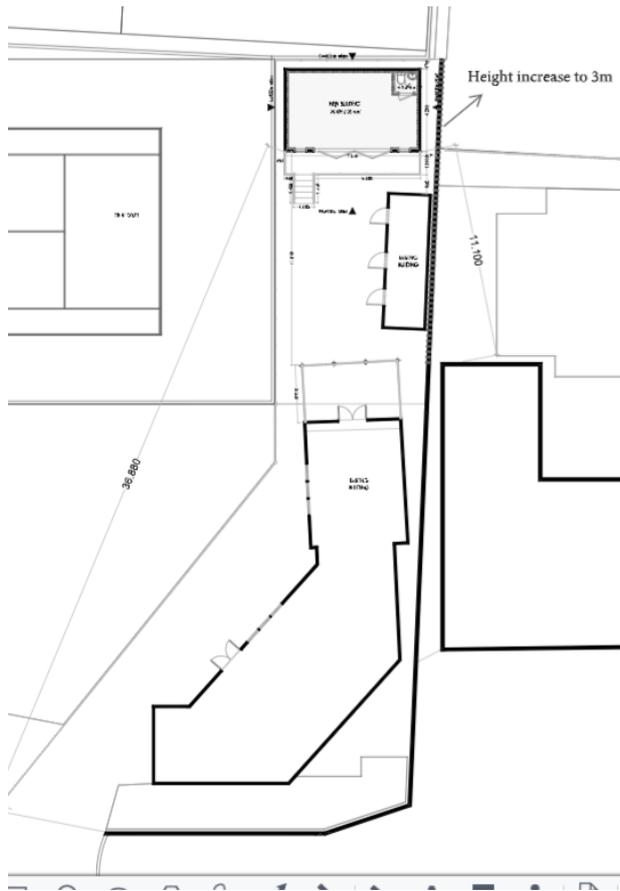
	<p><i>Reason: For the avoidance of doubt.</i></p>
<p>3.</p>	<p>The detached building shall be constructed with a treated timber frame and a black EDPM rubber roof, and the trellis screening shall be constructed using timber with details as per options 1 on the submitted Screening Addendum dated March 2025.</p> <p><i>Reason: To ensure a satisfactory standard of external appearance and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).</i></p>
<p>4.</p>	<p>The boundary treatment as approved on the Trellis Screening Details as shown on the Site Plan (1) on the south west boundary, shall be installed prior to the first occupation of the development. This boundary treatment shall be retained and maintained thereafter in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.</p> <p><i>Reason: In the interests of privacy and amenity for nearby residents and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).</i></p>
<p>5.</p>	<p>The development shall be carried out in accordance with the submitted Flood Risk Assessment compiled by Corylus Planning &amp; Environmental Ltd (ref 20241203 v2i and dated 03.12.2024) and the following mitigation measures it details:</p> <ul style="list-style-type: none"> <li>• Finished floor levels shall be set no lower than 28.37 metres above Ordnance Datum (AOD) as stipulated within section 5b of the submitted FRA.</li> <li>• Flood resistance and resilience measures shall be implemented in to the final design as indicated within section 5f of the FRA.</li> </ul> <p>These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme’s timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.</p> <p><i>Reason: To reduce the risk of flooding to the proposed development and future occupants, in accordance with the aims of Policy 1 of the Broxtowe Part 2 Local Plan (2019) and Policy 1 of the Aligned Core Strategy (2014).</i></p>
	<p><b>NOTES TO APPLICANT</b></p>

1.	The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.
2.	No construction or site preparation work in association with this permission shall be undertaken outside of the hours of 08:00-18.00 Monday to Friday, 08:00-13:00 Saturdays and at no time on Sundays or Bank Holidays.
3.	During the period of construction there should be no disposal of materials by burning owing to the proximity of neighbouring sensitive receptors.

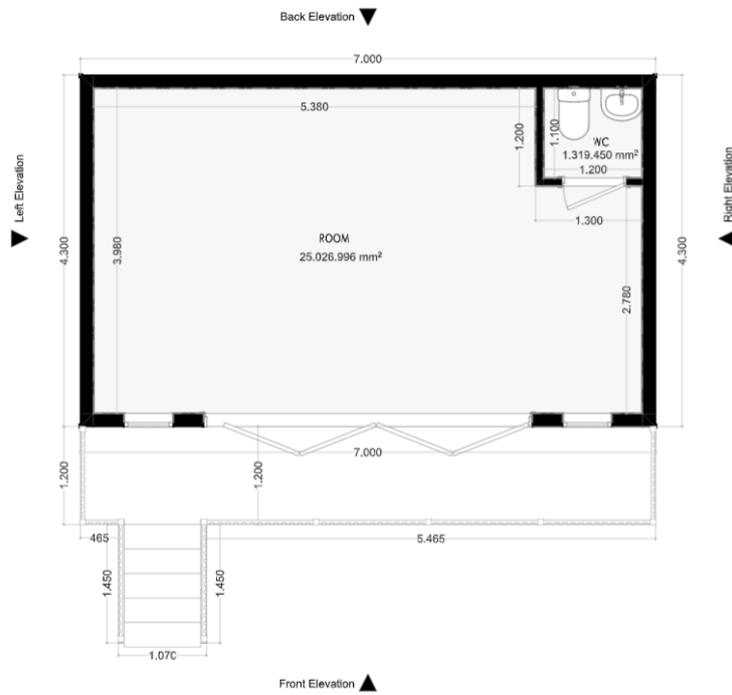
Map



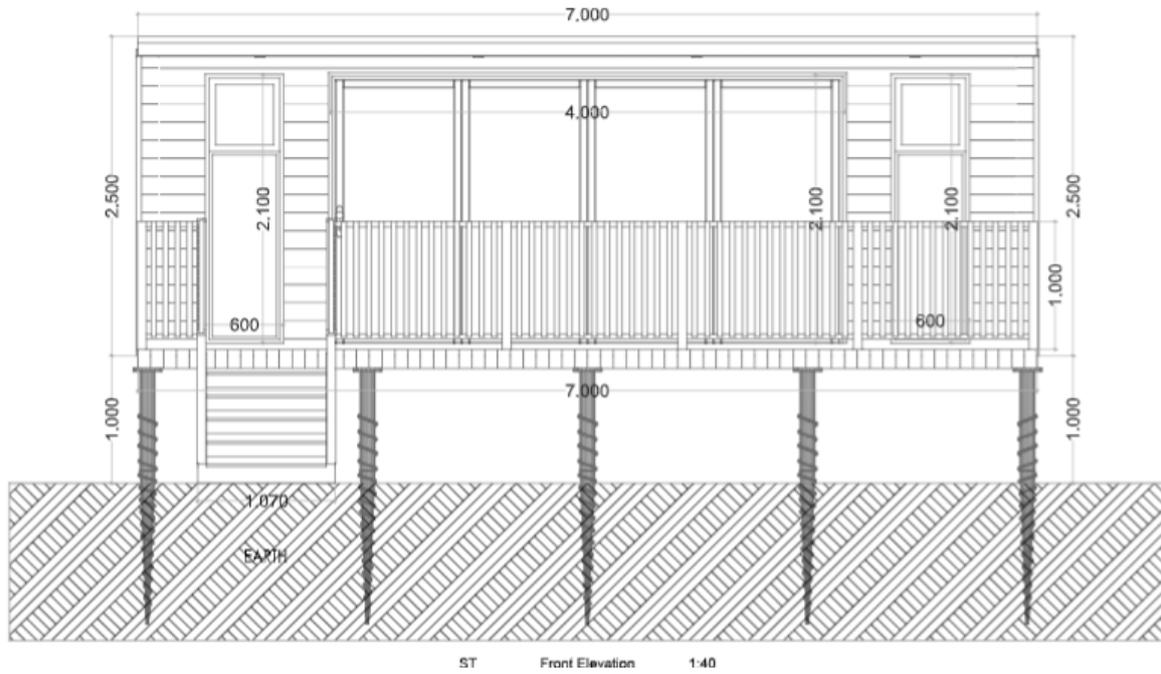
Plans



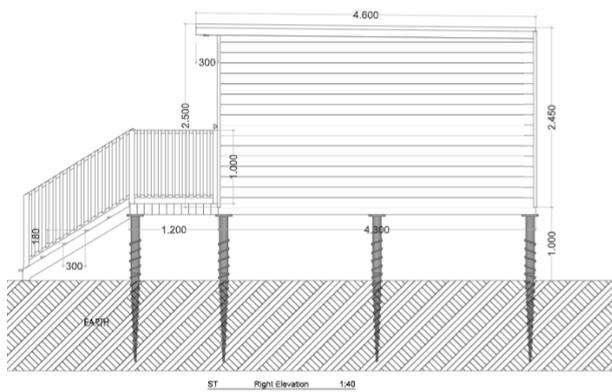
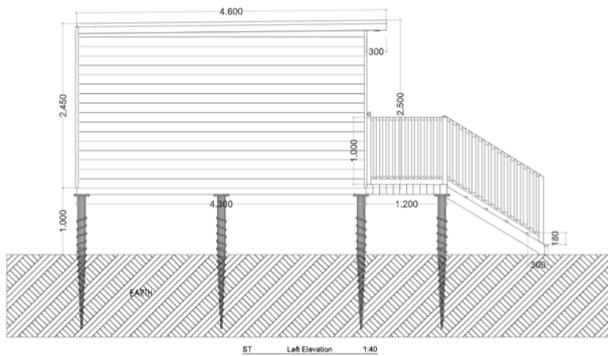
Proposed Block Plan



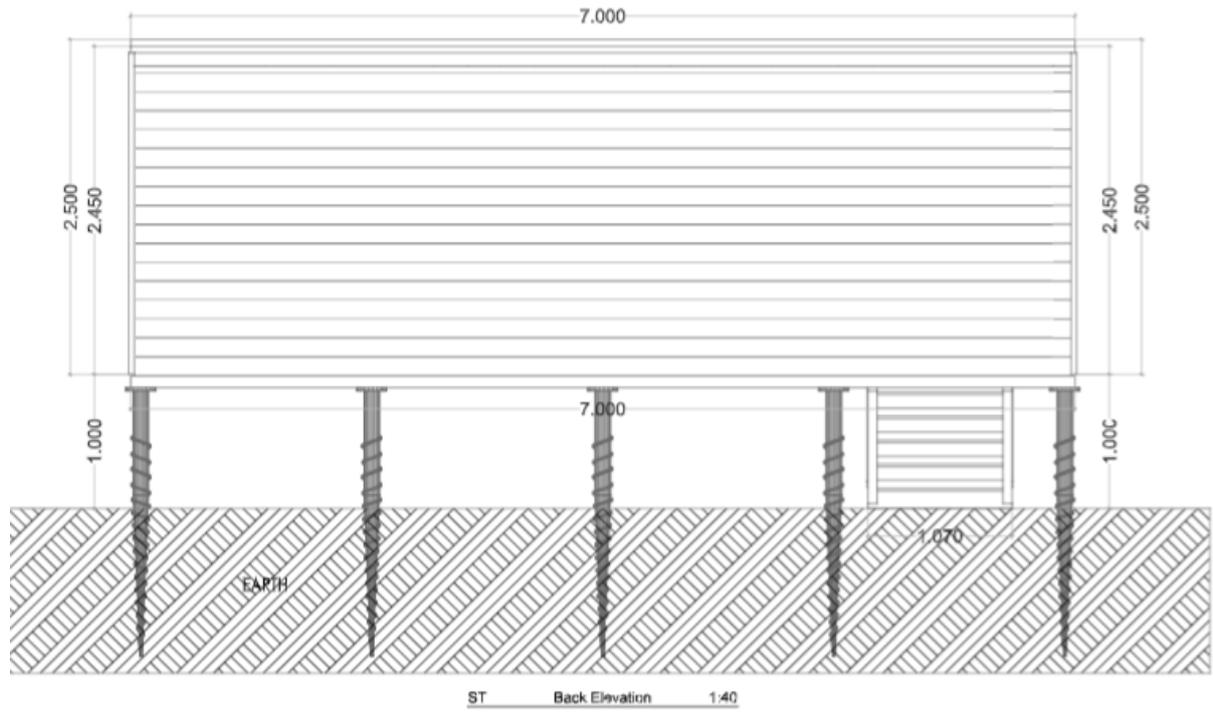
Proposed Floor Plan



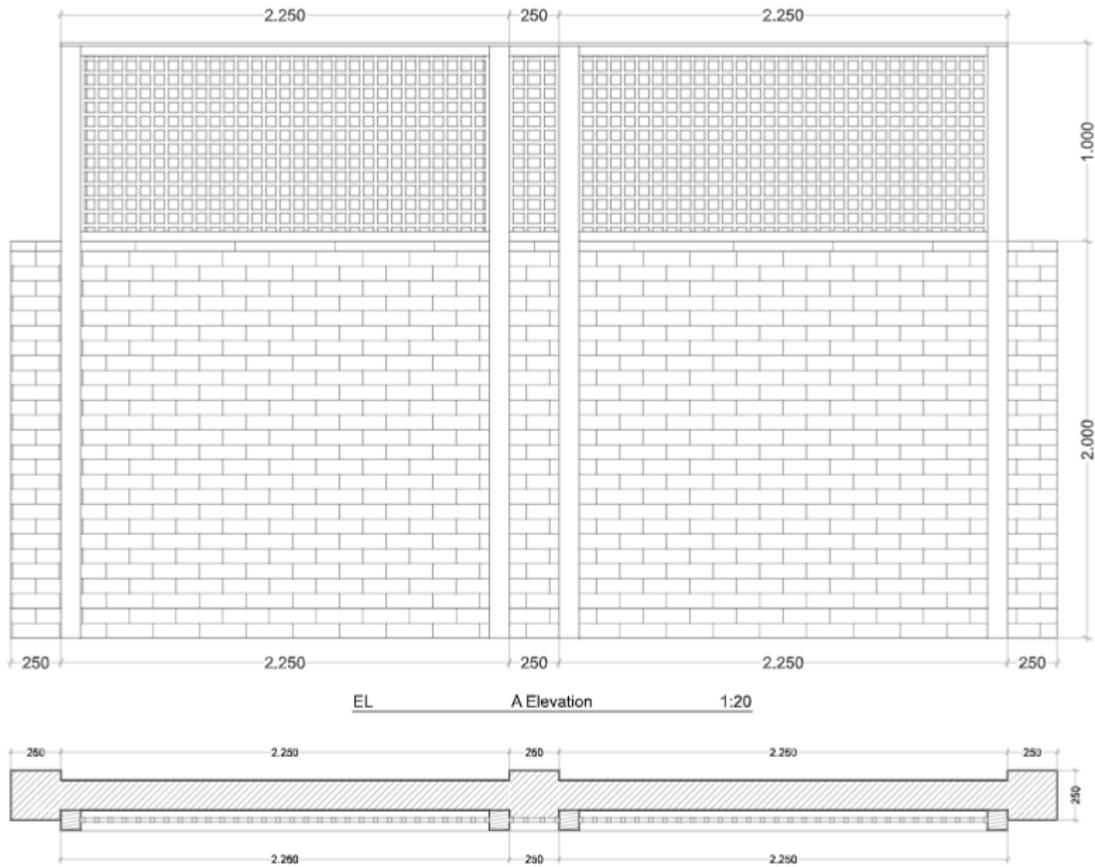
Proposed Front Elevation



Proposed Left and Right Side Elevations

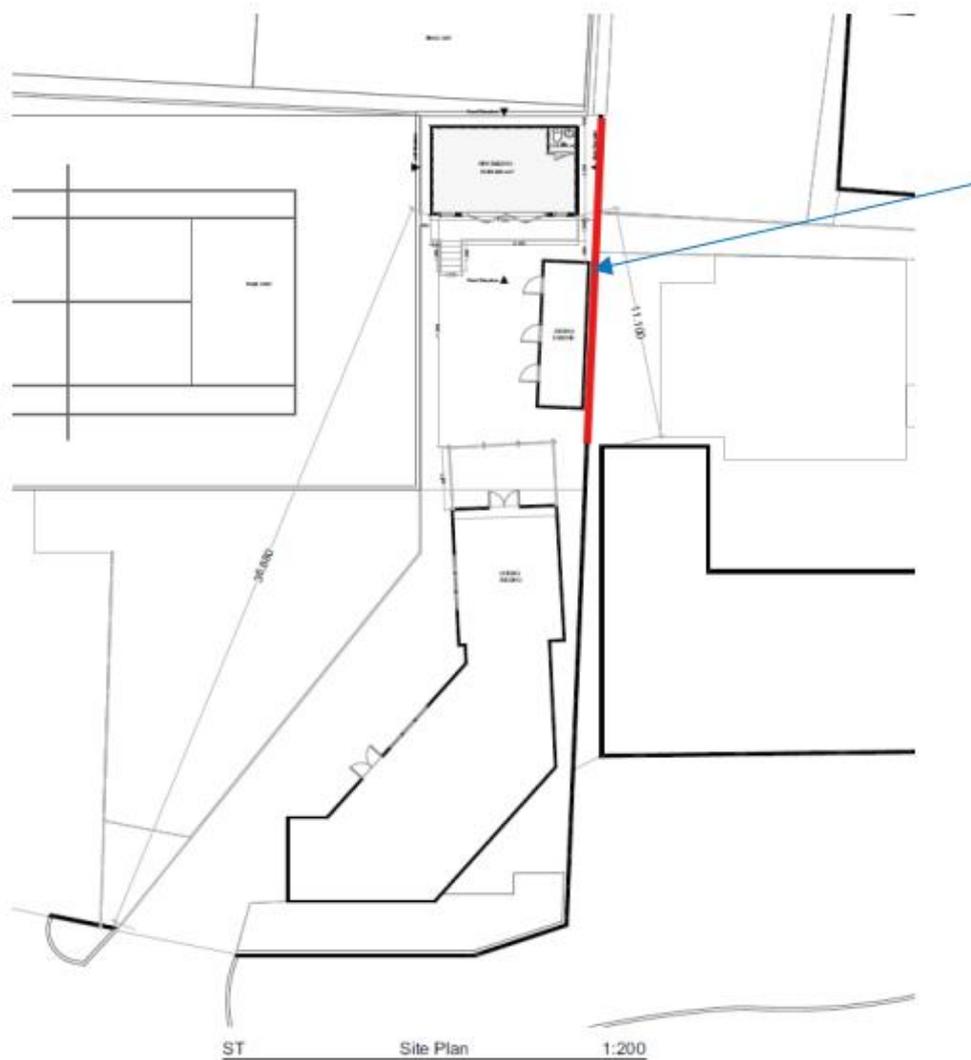


Proposed Rear Elevation



Trellis Plan

# Proposed Screening



Proposed location of screening to boundary