

**Ward:** Prestwich - St Mary's

Item 10

**Applicant:** M Abbariki

**Location:** Land at rear of 27 Duckworth Road, Prestwich, Manchester, M25 9GF

**Proposal:** Variation of condition 2 (approved plans) of planning permission 63374 to remove ash tree (T2)

**Application Ref:** 65589/Full

**Target Date:** 04/08/2020

**Recommendation:** Approve with Conditions

### **Description**

The application site is located between Nos 24 and 26 Lowther Road. The site contained a detached garage at the rear of the site with an area of hardstanding between the garage and Lowther Road. There are metal railings and gates along the footpath with Lowther Road. Vehicular access is taken from Lowther Road.

The site is bounded by residential properties. No. 24 is approximately 0.5 metre lower than the application site and No. 26 is approximately 0.5 metre higher than the application site.

Planning permission was granted for the demolition of the single storey garage on site and the erection of a small single dwelling. The dwelling would be single storey with living space in the roof and would be constructed from brick with a slate roof. There would be a pitched roof for the front part of the proposed dwelling and a flat roof at the rear. Access would be taken from Lowther Road. Development has commenced on this proposal.

The proposed development involves the variation of the approved plans condition (No. 2) to allow the removal of an ash tree at the rear of the building. The previously approved site plan showed the tree to be retained. A arboricultural report was submitted with the application and recommends that the tree should be removed.

### **Relevant Planning History**

02176/E - Proposed demolition of an existing disused garage and erection of 1 no dwelling at land to rear of 27 Duckworth Road, Prestwich. Enquiry completed - 17 August 2018.

63374 - Erection of 1 no. dwelling at land to rear of 27 Duckworth Road, Prestwich. Approved with conditions - 20 February 2019.

#### **Adjacent site**

33644 - Conservatory extension at the front at 24 Lowther Road, Prestwich. Approved with conditions - 17 December 1997.

41156 - Porch at side at 24 Lowther Road, Prestwich. Approved with conditions - 4 September 2003.

### **Publicity**

The neighbouring properties were notified by means of a letter on 18 June 2020 and a press notice was published in the Bury Times on 25 June 2020. Site notices were posted on 26 June 2020.

4 letters have been received from the occupiers of 24, 26 and 28 Lowther Road, which have raised the following issues:

- The tree is located on the Northern boundary of the plot and is therefore jointly owned by the applicant and the owners of the adjacent property at 24 Lowther Road, as such the tree cannot be removed or any work undertaken on the tree without the permission of the owners of 24 Lowther Road.
- The two new site plans submitted with this application show a change to the North West boundary such that the tree is no longer shown on the boundary but on the applicant's property, such an arbitrary change to the boundary cannot be acceptable and any change to the boundary must be agreed with the owners of the adjacent property at 24 Lowther Road.
- I object to the removal of the tree without the permission of the joint owners of the tree at 24 Lowther Road.
- During excavation works carried out at the above, significant damage has been caused to my property.
- Looking at the original plans I now see the boundary has moved. I assume the applicant has gained permission and has now gained full ownership of the tree, which was previously shared. Mr Price who I thought owned half the tree does not want it removed and I agree.
- This Ash is a perfect tree for this location as its airy canopy allows the sunlight through so as not to take light away from the properties. It could live for up to 400 years or more! The nuthatches we see in our gardens live in this tree, owls and redstarts would also use it for nesting, Bull-finches eat the seeds.
- This tree is invaluable to lots of wildlife species and to us for its environmental service of purifying our air! A whole boundary row of several Holly trees have already been removed from this plot for the purpose of building. Please don't chop this beautiful Ash tree down!
- Before the revised application, I spoke to the case officer who clearly stated that the tree was not to be removed.
- The tree is on my land, which Bury have known from the beginning.
- The developer has removed less than a foot of soil and seen the enormous size of this large ash tree, which roots travel under the garage and onto my land.
- I will once again state that I will sue Bury Council and the developer if any part of the tree is removed or damaged as it is on my land.

The objectors have been notified of the Planning Control Committee meeting.

#### **Statutory/Non-Statutory Consultations**

None required.

**Pre-start Conditions** - Not relevant.

#### **Unitary Development Plan and Policies**

H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/5	Waste Water Management
EN8	Woodland and Trees
EN8/2	Woodland and Tree Planting
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework

## **Issues and Analysis**

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

**Principle (Residential)** - The principle of the proposed development was established with the grant of planning consent in February 2019. Therefore, the proposed development is in accordance with Policy H1/2 of the Bury Unitary Development Plan.

**Design and layout and impact upon conservation area** - Whilst the application site is not located within the St Marys Conservation Area, it does face the Conservation Area boundary and as such, the proposal may have an impact upon the setting of the Conservation Area. Therefore, it is necessary to consider the proposal in terms of the Town and Country Planning Listed Building and Conservation Act.

Sections 66 and 72 of the Town & Country Planning (Listed Buildings & Conservation Areas Act) 1990 imposes a statutory duty upon the Local Planning Authority (LPA) to recognise, positively manage and ensure the preservation or enhancement of Listed Buildings and Conservation Areas.

Chapter 12 of the National Planning Policy Framework (NPPF) sets out the Government's planning policy position in relation to development involving heritage matters. Paras 128 to 141 set out how the significance of listed buildings and Conservation Areas must be considered in relation to development proposals including, but limited to, the judgement of harm, significance, loss to heritage assets (Designated ones and non-designated ones).

UDP Policies EN2/1, EN2/2 and EN2/3 seek to protect the character of listed buildings and conservation areas and to ensure that proposals preserve or enhance the character of such sensitive buildings and areas. In applying the tests of the policy to proposals, nature of the development, materials, relationships between visual qualities and the surrounding areas et al form part of the assessment process to ensure a high, conservation approach is adopted that is designed to preserve or enhance.

The design of the proposed dwelling has not been amended since the previous approval. As such, the proposed dwelling would preserve the surrounding properties and would not be a prominent feature in the streetscene. Therefore, the proposed development would be in accordance with Policies EN1/2, H2/1, H2/2, EN2/1 and EN2/2 of the Bury Unitary Development Plan and the NPPF.

The proposed dwelling would have a rear garden, which would have an acceptable level of private amenity space. There would be space within the rear and side garden for bin storage. Therefore, the proposed development would not be a prominent feature in the streetscene and would be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

**Impact upon residential amenity** - SPD6 provides guidance on aspect standards between residential properties and as such, would be relevant in this case. The aspect standards states that there should be a minimum of 20 metres between directly facing habitable windows, 13 metres between a habitable room window and a two storey blank wall and 6.5 metres between a habitable room window and a single storey blank wall.

The proposed dwelling has not been amended since the previous approval, which complied with the aspect standards. Therefore, the proposed development would not have a

significant adverse impact upon the amenity of the neighbouring properties.

**Trees** - The previous approval (63374) stated that the ash tree (labelled T2 in the arboricultural report) at the rear of the site, which is located on the boundary with No. 24 Lowther Road, would be retained. The development has begun in accordance with permission 63374 and it has become apparent that the tree can no longer be retained due to the close proximity of the construction works. The applicant has submitted an arboricultural report, which confirms that this tree would have to be removed to facilitate the development.

The tree is a category B tree and is located at the rear of the site. Whilst it is acknowledged that the tree is of moderate quality, the view of the tree has always been obscured by the existing garage and would have been obscured by the proposed dwelling. As such, the tree contributes little to the streetscene.

The Council's arboriculturalist agrees with the conclusions of the arboricultural report in that the tree should be removed and a replacement tree provided.

The applicant has confirmed that a replacement tree would be planted to the front of the proposed dwelling and is shown on the proposed site plan. As such, the proposed development would not have an adverse impact upon the character of the area and would be in accordance with Policy EN8/2 of the Bury Unitary Development Plan.

**Highways issues** - The proposed development would not impact upon the previously approved access, turning and parking arrangements. Therefore, the proposed development would not be detrimental to highway safety and would be in accordance with Policies EN1/2, H2/1, H2/2 and HT2/4 of the Bury Unitary Development Plan.

#### **Response to objectors**

- The agent has provided revised plans, which have amended the red edge to reflect the land in his ownership.
- Photo 3 on the committee report shows the position of the tree in November 2018 and it is on the development's side of the fence. Irrespective of this, land ownership matters are not material considerations for this application.
- The issues relating to the removal of the tree have been addressed in the above report.

#### **Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015**

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

**Recommendation:** Approve with Conditions

#### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered AS01, 19023 01A, 19023 02A and the development shall not be carried out except in accordance with the drawings

hereby approved.

Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

3. The external finishing materials shall be those materials approved as part of condition 3 of permission 63374.  
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policy EN1/1 Visual Amenity.
4. The remediation strategy approved as part of condition 4 of permission 63374 must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and  
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.  
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
5. The car parking indicated on approved plan reference AS02 shall be surfaced and made available for use prior to the dwelling hereby approved being occupied and thereafter maintained at all times.  
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to Policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
6. The turning facilities indicated on approved plan reference AS02 shall be provided before the dwelling is first occupied and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.  
Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to the following Policies of the Bury Unitary Development Plan:  
Policy H2/1 - The Form of New Housing Development  
Policy H2/2 - The Layout of New Housing Development  
Policy EN1/2 - Townscape and Built Design
7. Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Classes A to G of Part 1 of Schedule 2 of the Order, nor shall the flat roof be used as a balcony without the submission and approval of a relevant planning application.  
Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan H2/3 Extensions and Alterations, H2/1 - The form of New Residential Development and H2/2 - The Layout of New Residential Development.
8. The development hereby approved shall be carried out in accordance with the Construction Traffic Management Plan approved as part of condition 9 of permission 63374.  
The approved plan shall be adhered to throughout the demolition/construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the demolition and construction periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of demolition/construction materials.  
Reason. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of

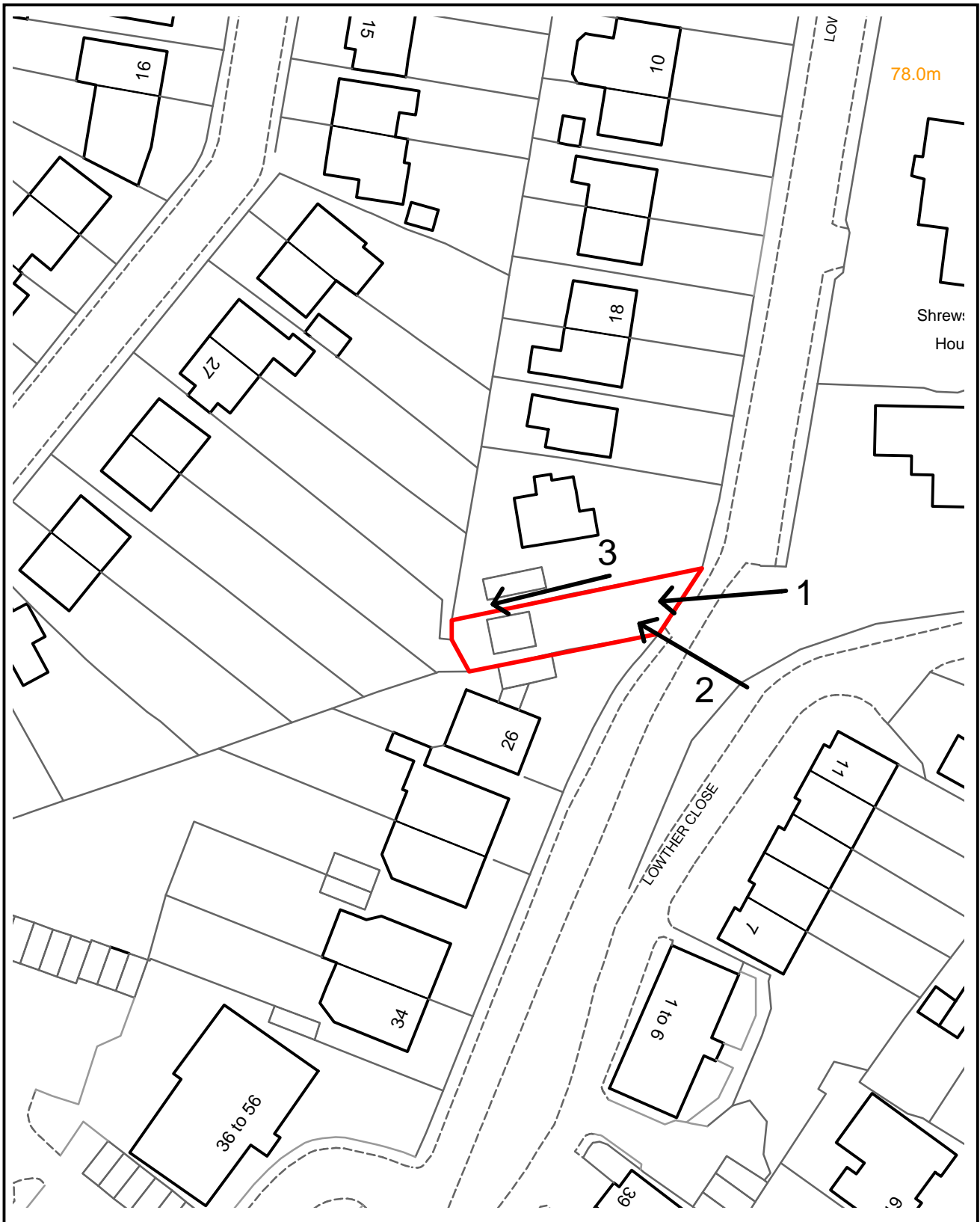
deposited material from the ground works operations, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

9. The development hereby approved shall be carried out in accordance with the visibility splays approved as part of condition 10 of permission 63374. The splays subsequently approved shall be implemented prior to the dwelling hereby approved being occupied and subsequently maintained free of obstruction above the height of 0.6m.  
Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of highway safety pursuant to the following Policies of the Bury Unitary Development Plan:  
Policy H2/1 - The Form of New Housing Development  
Policy H2/2 - The Layout of New Housing Development  
Policy EN1/2 - Townscape and Built Design.
10. Subject to the amendments required as part of Condition 2, the vehicular and pedestrian access arrangements indicated on approved plan reference AS02, incorporating the provision of a sliding gate, boundary wall foundations that do not encroach under the adjacent adopted highway and all associated highway remedial works, shall be implemented before the development is first occupied.  
Reason. To ensure good highway design in the interests of road safety pursuant to the following Policies of the Bury Unitary Development Plan:  
Policy H2/1 - The Form of New Housing Development  
Policy H2/2 - The Layout of New Housing Development  
Policy EN1/2 - Townscape and Built Design.
11. The replacement tree, identified on plan reference 19023 01A shall be planted within the first planting season after the dwelling hereby approved is first occupied. The tree shall be at least 14 - 16 cm in girth. Any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.  
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

For further information on the application please contact **Helen Leach** on **0161 253 5322**



# Viewpoints



## PLANNING APPLICATION LOCATION PLAN

APP. NO 65589

ADDRESS: Land at 27 Duckworth Road  
Prestwich

Planning, Environmental and Regulatory Services

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**Bury**  
COUNCIL



65589

Photo 1



Photo 2



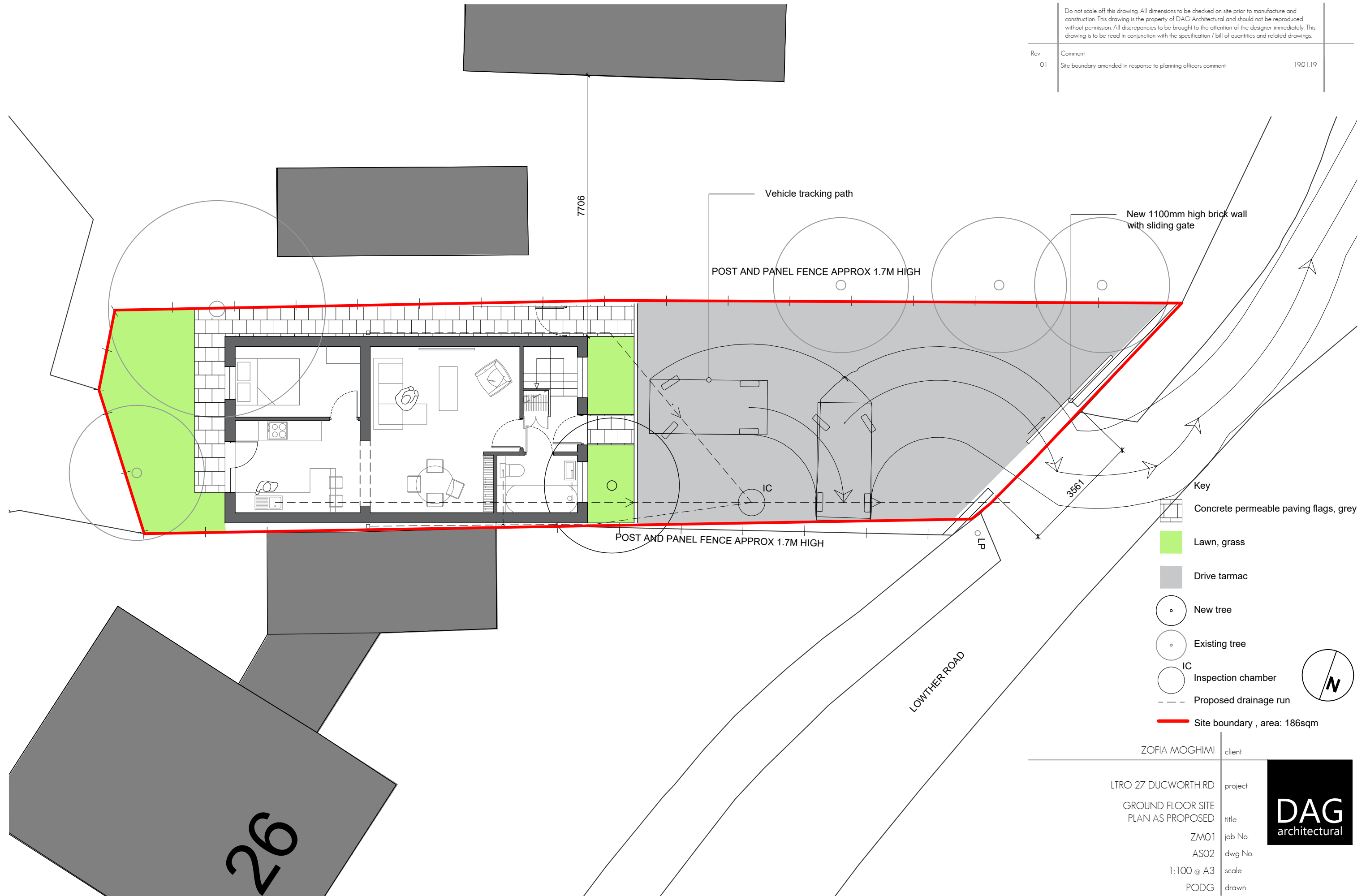
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Photo 3



Do not scale off this drawing. All dimensions to be checked on site prior to manufacture and construction. This drawing is the property of DAG Architectural and should not be reproduced without permission. All discrepancies to be brought to the attention of the designer immediately. This drawing is to be read in conjunction with the specification / bill of quantities and related drawings.

Rev	Comment	
01	Site boundary amended in response to planning officers comment	1901.19



- Key**
- Concrete permeable paving flags, grey
  - Lawn, grass
  - Drive tarmac
  - New tree
  - Existing tree
  - IC
  - Inspection chamber
  - Proposed drainage run
  - Site boundary , area: 186sqm

ZOFIA MOGHIMI client  
 LTRO 27 DUCWORTH RD project  
 GROUND FLOOR SITE PLAN AS PROPOSED title  
 ZM01 job No.  
 AS02 dwg No.  
 1:100 @ A3 scale  
 PODG drawn



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