

Section '4' - Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

**Application No :** 14/00102/VAR

**Ward:**  
Mottingham And Chislehurst  
North

**Address :** 192 Elmstead Lane Chislehurst BR7  
5EN

**OS Grid Ref:** E: 542831 N: 171649

**Applicant :** Mr J Moyce

**Objections :** YES

**Description of Development:**

Variation of conditions 1 and 3 of planning reference 08/03962 to allow use of the garage for the storage of private motor vehicles only, removing its association with No.192 Elmstead Lane.

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
Local Cycle Network  
London City Airport Safeguarding  
London City Airport Safeguarding Birds  
Local Distributor Roads  
Open Space Deficiency

**Proposal**

- Planning permission was granted under ref. 08/03962 for a detached garage at rear of 192 Elmstead Lane. This was approved subject to conditions. The current application seeks permission for the variation of conditions 1 and 3 of planning ref. 08/03962 to allow use of the garage for the storage of private motor vehicles only, removing its association with No.192 Elmstead Lane.
- The application states that according to the Land Registry documents, the garage no longer forms part of the residential curtilage of No. 192 Elmstead Lane. The property was purchased by the current owners of No . 192 under this arrangement.
- The application is seeking to vary conditions 1 and 3 of approval ref. 08/03962 so that the garage is still used for the storage of private motor vehicles only, but removing its association with No. 192 Elmstead Lane, and has suggested replacement conditions to this effect.

## **Location**

The application site is located to the rear of 192 Elmstead Lane and is accessed via a vehicular track to the rear of Nos. 162 - 194 Elmstead Lane. The application site hosts a single storey detached garage which was previously sited on land belonging to No .192 Elmstead Lane. The dwelling was subsequently sold to a new owner, but the land that the garage is sited on was retained by the previous owner of 192 Elmstead Lane.

## **Comments from Local Residents**

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- strongly oppose the application;
- restrictive covenants states no part of the land or building can be used for commercial use;
- garage currently being used to store commercial materials which is unlawful;
- the land should only be used and occupied for private dwellinghouses;
- proposal would lead to gross loss of amenity for local residents;
- access to the track is currently restricted to owners/occupiers using garages for domestic use;
- users of the access track and garages are known to each other, therefore high degree of security;
- loss of residential security;
- should the garage be used by non-residents of the area, it could be used for a variety of activities including commercial storage or a workshop as it is currently being used for illegally;
- access road could be used by vans / commercial vehicles, blocking access by legitimate domestic users;
- increase in noise and disturbance to residents;
- allowing this application would be contrary to Chapter 4 of the UDP;
- allowing the application would set an unwanted precedent for similar severances of garages from residential properties.

## **Comments from Consultees**

No technical objections raised by the Council Highway Engineer.

## **Planning Considerations**

The application falls to be determined in accordance with the following policies of the Unitary Development Plan

BE1 Design of New Development  
T3 Parking

## **Planning History**

Permission was granted under ref. 08/01445 for single storey front extension and part one part two storey rear extension.

An amendment to this planning permission was then refused under ref. 08/02393. The amendment was for an increased rearward projection of the single storey rear extension from 3m on the southern side to 3.7m and was refused for the following reason:

The single storey rear extension, by reason of its height, bulk and excessive rearward projection would have a seriously detrimental effect on the visual amenities of No. 190 Elmstead Lane, which the occupants of that dwelling might reasonably expect to be able to continue to enjoy, contrary to Policies BE1 and H8 of the Unitary Development Plan.

The refused amendment was taken to Appeal and allowed.

A Certificate of Lawfulness was refused for the erection of a detached garage at rear under ref. 08/02424.

Full planning permission was then granted for a retrospective application under ref. 08/03962 for a detached garage at rear. This was subject to a number of conditions:

1. The garage(s) hereby permitted shall be used solely for the accommodation of private motor vehicles and for purposes incidental to the dwelling(s), and shall not be converted to living accommodation without the prior approval in writing of the Local Planning Authority.  
**Reason:** The storage of other vehicles (e.g. vans, lorries, etc) or use for other purposes would conflict with Policy T3 of the Unitary Development Plan, would be detrimental to the amenities of the neighbourhood, and conversion of the garage to living accommodation would deprive the property of adequate parking facilities.
2. Details of the external rendered surface of the garage hereby permitted shall be submitted to and approved in writing within 1 month of the date of this decision notice. The works shall be carried out in accordance with the approved details before the garage is first used.  
**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and visual amenities of the area.
3. No business, trade or profession shall be carried out in the garage hereby approved which shall be used solely for purposes incidental to the enjoyment of the private dwelling house.  
**Reason:** To safeguard the amenities of neighbouring properties and to comply with Policy BE1 of the Unitary Development Plan.

## Conclusions

Members may consider that the main issues relating to the application are the effect that the proposal would have on the residential character of the area and the impact that it would have on the amenities of the occupants of surrounding residential properties.

At present, the owner of the garage is in breach of the planning conditions imposed on planning approval ref. 08/03962 by reason of having separated the garage from the residential curtilage of No.192 Elmstead Lane, and also using the garage for the storage of building materials. The current application is seeking to regularise this, however, in the meantime the garage remains in use as a storage facility for building materials. This was seen when the site visit was carried out, can be seen in the photographs from the site visit, and was confirmed by the agent when discussed following the site visit.

The agent has stated that the use of the garage will revert to storing private motor vehicles and shall not be used for business, trade or professional use once the application is granted.

Concerns have been raised by a large number of local residents with regard to the proposed variation of conditions at the garage, mainly that the garage will still not be used correctly and it will remain in use as a storage room for building materials, with vans and lorries visiting the garage which would in turn block the access track. However, Members will appreciate that this cannot be proven either way until the application is determined.

The garage is located within a residential area and when planning permission was granted for its replacement, this was done so on the basis that it would be linked with the residential dwelling and curtilage, and only used for the storage of private motor vehicles for 192 Elmstead Lane. Members will wish to consider whether the removal of the garage from the residential curtilage is considered unacceptable and whether it is likely to cause harm to the residential character of the area, or set a precedent for other sites in the Borough.

It is considered that if the current application is permitted, this would be likely to lead to a proliferation of stand-alone garages not linked to any particular residential dwelling, and as a result would have an impact upon parking for these residential properties, resulting in an increase in on-street parking and an impact upon the free flow of traffic, along with a marked change to the residential character of the area by reason of coming and goings associated with the use of the garage but unrelated with the nearby residential properties.

Members may consider that as a result of the proposal to sever the garage from the residential curtilage, there would be an increase in noise and activity through use of the garage that would be unrelated to the nearby residential dwellings, and this would therefore have a detrimental impact upon the residential amenity of the nearby dwellings and the severance of the garage should be resisted.

It is also noted that when permission was originally granted for the replacement garage, condition 2 of permission ref. 08/03962 stated that:

Details of the external rendered surface of the garage hereby permitted shall be submitted to and approved in writing within 1 month of the date of this decision notice. The works shall be carried out in accordance with the approved details before the garage is first used.

To date, it does not appear that this condition has ever been complied with and therefore should permission be refused, Members may wish to refer the matter to Planning Investigations.

Background papers referred to during production of this report comprise all correspondence on the files refs. 14/00102 and 08/03962 set out in the Planning History section above, excluding exempt information.

### **RECOMMENDATION: PERMISSION BE REFUSED**

The reasons for refusal are:

- 1 The proposal to sever the garage from Number 192 Elmstead Lane would be detrimental to the amenities that the occupiers of adjoining properties might reasonably expect to be able continue to enjoy by reason of increased noise and activity associated with the use of the garage but unrelated to the nearby residential dwellings, contrary to Policies H8 and BE1 of the Unitary Development Plan.

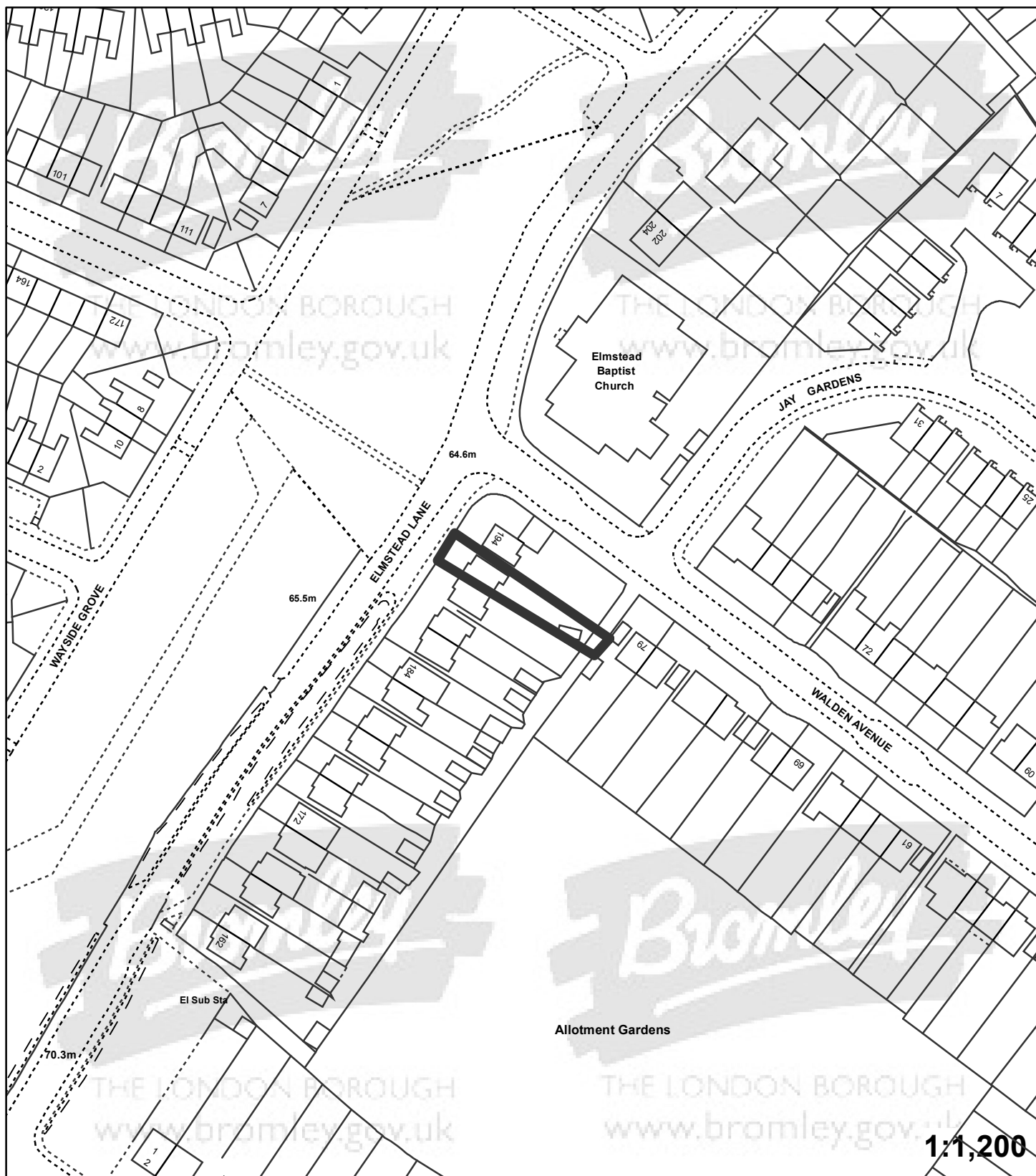
### **INFORMATIVE(S)**

- 1 You are advised that the works being carried out at this property are unauthorised and you should submit a planning application to regularise these works within 14 days of the date of this decision notice. Failure to do so may result in enforcement action.

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"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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