Committee Date	08.06.2023	
Address	The Roses Kemnal Road Chislehurst BR7 6LT	
Application Number	23/01103/FULL6	**Officer** - Gill Lambert
Ward	Chislehurst	
Proposal	Garage conversion into habitable room, double storey side extension and single storey rear extension and elevational alterations	

Applicant	**Agent**
Mr & Mrs Mothersole	Mr Sanjay Kanadia
The Roses Kemnal Road Chislehurst BR7 6LT	260 Sherwood Park Avenue Sidcup DA159JN

Reason for referral to committee	Side space	**Councillor call in** No

RECOMMENDATION	Application Refused

KEY DESIGNATIONS

Conservation Area: Chislehurst
Biggin Hill Safeguarding Area
London City Airport Safeguarding
Open Space Deficiency
Smoke Control SCA 16
Tree Preservation Order

Representation summary	Neighbour letters were sent 21/03/23 A Statutory site notice was displayed at the site between 24.03.23 – 15.04.23

Total number of responses	0
Number in support	
Number of objections	

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposals would result in unacceptable harm to trees on the site which are considered to be of significant value to Chislehurst Conservation Area.

2 LOCATION

2.1 This detached two storey dwelling occupies a corner site at the junction of Kemnal Road and Dickens Drive, and is located within Chislehurst Conservation Area. The site is covered by a blanket TPO made in the 1970s.

2.2 The surrounding area is characterised by a mixture of detached dwellings and large flatted developments set within spacious grounds.

3 PROPOSAL

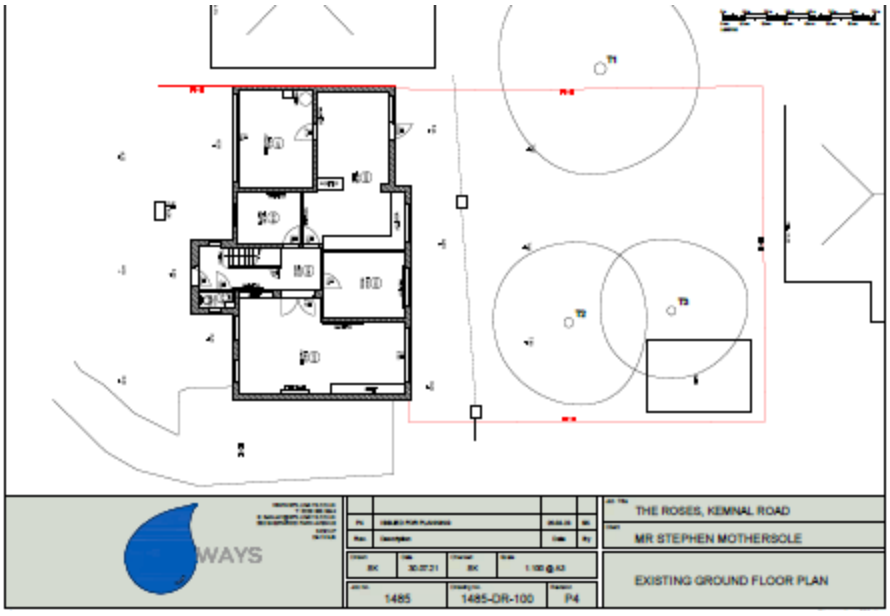
3.1 It is proposed to demolish the existing side garage, and construct a part one/two storey side/rear extension. The ground floor element of the proposals would abut the side boundary with Middlemarch and would project 3.3m to the rear.

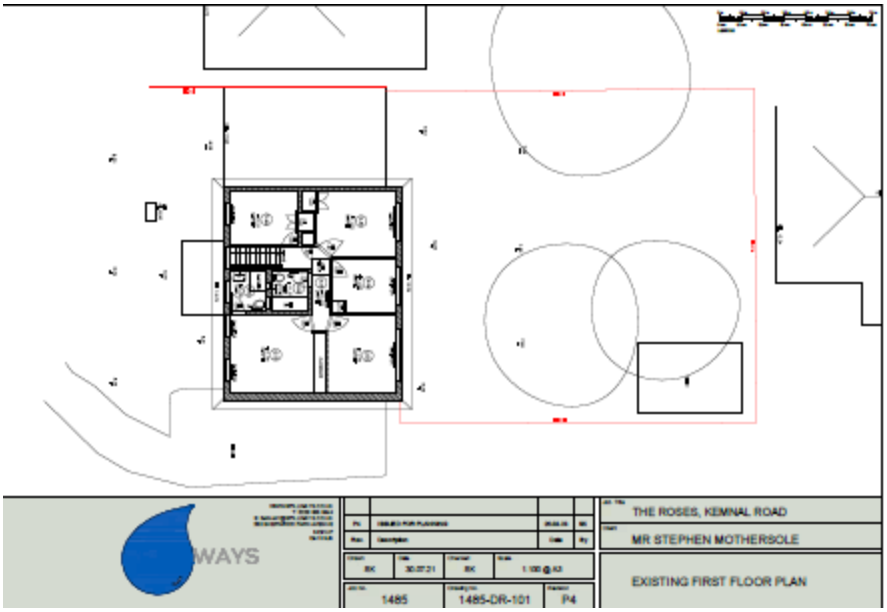
3.2 The first floor element of the proposals would be set back 0.8m from the front elevation of the dwelling, and 1m from the side boundary, and the roofline would be 0.4m lower than the main roof ridge. The rear extension would be single storey only.

3.3 The application was supported by the following documents:

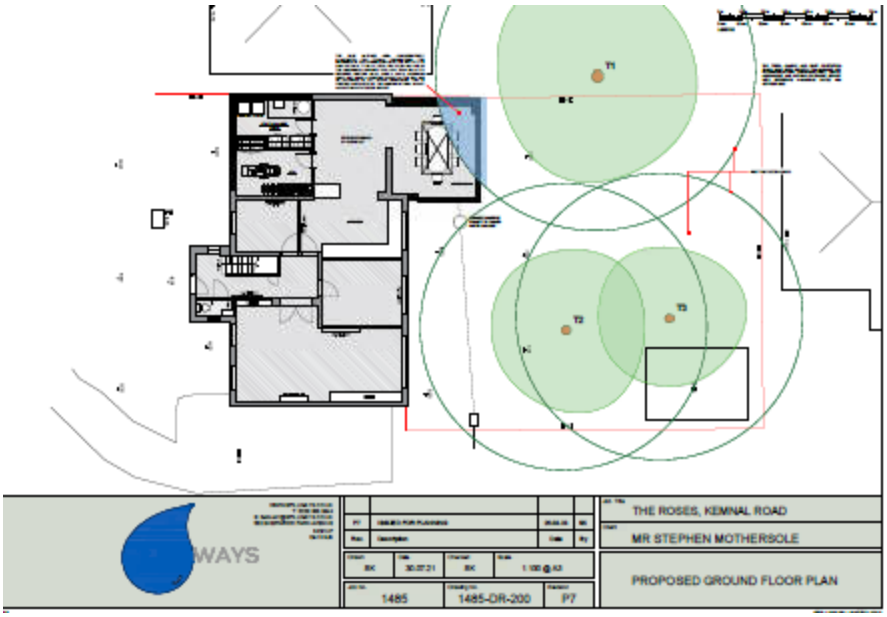
- Arboricultural Impact Assessment and Method Statement
- Design and Access Statement

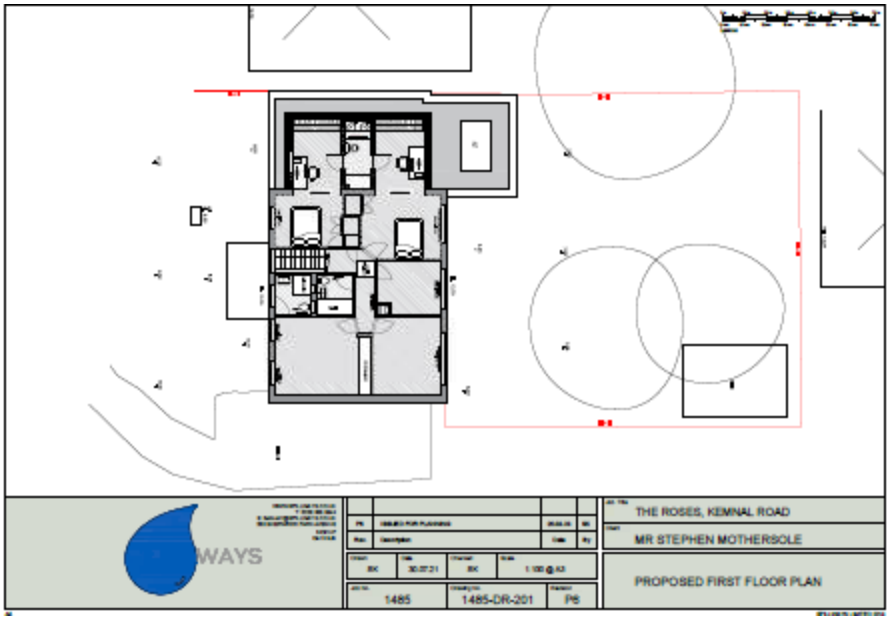
3.4 Existing floor plans:





3.5 Proposed floor plans:





3.6 Existing front and rear elevations:

3.7 Proposed front and rear elevations:

4 RELEVANT PLANNING HISTORY

4.1 The relevant planning history relating to the application site is summarised as follows:

4.2 Permission was granted in 2001 (ref.00/03519/FULL1) for a single storey rear extension.

4.3 Retrospective permission was granted in 2009 (ref.09/02001/FULL6) for front entrance gates with metal railings and pillars (maximum height 2.1m).

4.4 Permission was refused in January 2015 (ref.14/04431) for a side and rear boundary wall/fence with a maximum height of 2.5m on the following grounds:

"The proposed boundary wall and fence would, by reason of its size, height and siting at the back edge of the footway, have a seriously detrimental impact on the character and open-plan nature of this part of Chislehurst Conservation Area, thereby contrary to Policies BE1, BE7 and BE11 of the Unitary Development."

4.5 Permission was granted in August 2015 (ref.15/02931/FULL6) for the replacement of the rear boundary wall to the north and west.

4.6 Permission was refused in August 2022 (ref.21/04873/FULL6) for the demolition of the existing garage and the erection of a part one/two storey side/rear extension with elevational alterations on the following grounds:

"The proposals would result in unacceptable harm to trees on the site which are considered to be of significant value to Chislehurst Conservation Area, thereby contrary to Policies 43 and 73 of the Bromley Local Plan."

4.7 The subsequent appeal was dismissed in February 2023 on grounds relating to the unacceptable risk of harm to the protected trees which, if realised, could result in the loss or premature decline, or damage to at least one of the three protected trees. Due to their size and value, this was considered to be to the detriment of the significant and positive contribution they make, both individually and as part of a group, to the wider wooded character and appearance of the Conservation Area.

5 CONSULTATION SUMMARY

A) Statutory/Non-Statutory

Conservation – No objections

This modern house is of low significance in the Conservation Area, and the proposals represent an acceptable level of subservience within the Conservation Area setting. No objections are therefore raised form a heritage viewpoint.

Highways – No objections

The proposal will remove the existing garage. However, there is parking for a number of vehicles available on the frontage, and no highways objections are therefore raised to the proposals.

Given the status of Kemnal Road as an unadopted street, informatives are suggested to protect the condition of the relevant section of the road, and the requirement to obtain the agreement of the owner(s) of the sub-soil upon which Kemnal Road is laid out.

Trees – Objections

Objections are raised to the proposals for the following reasons:

1) Inaccurate information - The Arboricultural Report dated 14/10/2022 calculates the extent of T1's RPA encroachment as less than 3% but does not state whether existing encroachments, such hardstanding for paths/patios, have been included in this calculation. Furthermore, it confusingly states that "The proposal will not impact on the RPA's of T1, T2 or T3" having already stated there would be a 5m2 incursion into the RPA of T1.

The report states that "A clearance of two metres from the mature tree crown is generally considered acceptable which is the case with this proposal." However, the plan depicts the crown overhanging the proposed footprint, indicating there would immediately be pressure to prune.

2) Risk of harm during construction - The encroachment into the RPA of T1 presents a risk of direct harm to the roots of T1 from foundation excavation. The default position of BS 5837:2012 is that structures are located outside RPAs of retained trees unless there is an overriding justification. Furthermore, the encroachment reduces the amount of unsurfaced RPA available for rainwater infiltration and gaseous exchange and thereby could affect the long-term physiological health of T1.

3) Future pressure to prune/remove - The proposed extension pushes the dwelling closer to the overhanging canopy of T1 in particular. This is particularly unfavourable for such a high value tree as T1. It increases the risk of future problems; nuisance of falling debris, perception of risk from branch/whole tree failure, greater potential severity of the consequences in the event of branch failure. The existence of the TPO is not sufficient to overcome this issue because when making any decision on an application to carry out works to a protected tree, tree officers must take account of any increased likelihood of a target being hit in the event of any failure. Therefore, an objection is raised on the basis that there is a risk of unacceptable harm to valuable trees. The proposal conflicts with policies 43 and 73 of the Bromley Local Plan.

Therefore, tree objections are still raised to the proposals on the basis that there is a risk of unacceptable harm to valuable trees, thereby contrary to Policies 43 and 73 of the Bromley Local Plan.

B) Adjoining Occupiers

No adjoining occupier comments have been received.

6 POLICIES AND GUIDANCE

6.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

(a) the provisions of the development plan, so far as material to the application,
(b) any local finance considerations, so far as material to the application, and
(c) any other material considerations.

6.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

6.3 The National Planning Policy Framework was published on 20th July 2021, and is a material consideration.

6.4 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2021). The NPPF does not change the legal status of the development plan.

The application falls to be determined in accordance with the following policies:-

The London Plan

D1 London's form and characteristics
D3 Optimising site capacity through the design-led approach
D4 Delivering good design
HC1 Heritage conservation and growth
T6 Car parking

Bromley Local Plan 2019

6 Residential Extensions
8 Side Space
30 Parking
37 General Design of Development
41 Conservation Areas
43 Trees in Conservation Areas
73 Development and Trees
123 Sustainable Design and Construction

Supplementary Planning Guidance

Chislehurst Conservation Area SPG
SPG1 – General Design Principles
SPG2 – Residential Design Guidance

7 ASSESSMENT

7.1 Resubmission

7.1.1 The only differences between the current and previously dismissed schemes are that a revised Arboricultural Impact Assessment and Method Statement has been submitted, and the Root Protection Areas of the important trees have been shown on the proposed ground floor plan. No changes have been made to the proposed extension.

7.2 Heritage impact – Acceptable

7.2.1 The NPPF sets out in section 16 the tests for considering the impact of a development proposal upon designated and non-designated heritage assets. The test is whether the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset and whether it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits. A range of criteria apply.

7.2.2 Paragraphs 202 and 203 state 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. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset

7.2.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a requirement on a local planning authority in relation to development in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

7.2.4 Interpretation of the 1990 Act in law has concluded that preserving the character of the Conservation Area can not only be accomplished through positive contribution but also through development that leaves the character or appearance of the area unharmed.

7.2.5 Policy 41 of the Bromley Local Plan (BLP) requires development in a conservation area to preserve and enhance its characteristics and appearance by:

(1) Respecting or complementing the layout, scale, form and materials of existing buildings and spaces;
(2) Respecting and incorporating in the design existing landscape or other features that contribute to the character, appearance or historic value of the area; and
(3) Using high quality materials.

7.2.6 Policies 6 and 37 of the Bromley Local Plan (BLP) and the Council's Supplementary design guidance seek to ensure that new development, including residential extensions are of a high quality design that respect the scale and form of the host dwelling and are compatible with surrounding development.

7.2.7 Policy 8 of the BLP requires a minimum separation of 1m to be retained to the flank boundaries of the site in respect of two storey development for the full height of the extension.

7.2.8 As with the previous scheme, the proposed part one/two storey side/rear would extend up to the boundary at ground floor level, and would not therefore technically comply with the Council's side space policy. However, the first floor element would be set back 1m from the side boundary, and given that it would also be set back 0.8m from the front façade and would have a lowered roofline, it would result in a subservient appearance. The proposals are not therefore considered to detract from the appearance of the dwelling nor appear unduly cramped within the street scene.

7.2.9 This modern house is of low significance in the Conservation Area, and the subservient design of the proposed extension is considered to preserve the character and appearance of Chislehurst Conservation Area. The Council previously found the scheme to be acceptable from a design and heritage perspective. The Inspector in the previous appeal agreed with this assertion.

7.2.10 The impact of the proposals on protected trees in the Conservation Area is discussed in the Trees section below.

7.3 Neighbouring amenity - Acceptable

7.3.1 Policy 37 of the BLP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

7.3.2 As with the previous scheme, the proposed extension would project approximately 2.2m to the rear of the adjacent dwelling at Middlemarch to the south which is set at a slightly higher level, and the rear part of the extension would be single storey only. Given the orientation and modest depth of the extension, it is not considered to result in a significant loss of light to or outlook from the adjacent property.

7.3.3 No windows are proposed in the southern flank elevation of the extension facing Middlemarch, and the proposals would not therefore result in any undue overlooking of the neighbouring property.

7.3.4 Having regard to the scale, siting, separation distance, orientation and existing boundary treatment of the development, it is not considered that a significant loss of amenity with particular regard to light, outlook, prospect and privacy would arise.

7.4 Highways – Acceptable

7.4.1 The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The NPPF clearly states that transport issues should be considered from the earliest stage of both plan making and when formulating development proposals and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

7.4.2 The NPPF states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

7.4.3 London Plan and BLP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the London Plan and BLP should be used as a basis for assessment.

7.4.4 No highways objections are raised to the proposals.

7.5 Trees - Unacceptable

7.5.1 Policy 43 of the Bromley Local Plan resists development where it would damage or lead to the loss of one or more significant and/or important trees in a Conservation Area unless:

(a) Removal of the tree(s) is necessary in the interest of good arboricultural practice, or
(b) The benefit of the development outweighs the amenity value of the tree(s).

7.5.2 In the previous application which went to appeal, the Council and the Inspector considered that the proposals would have an unacceptable risk of harm to the protected trees which, if realised, could result in the loss or premature decline, or damage to at least one of the three protected trees. Due to their size and value, this was considered to be to the detriment of the significant and positive contribution they make, both individually and as part of a group, to the wider wooded character and appearance of the Conservation Area.

7.5.3 The current proposals are for the same scheme but with an updated analysis of the impact on trees. However, the Council's Tree Officer has still raised objections to the proposals on the basis that there is a risk of unacceptable harm to valuable trees on the site which are considered to be of significant value to the Conservation Area. The Tree officers concerns are set out in detail in section 5 of this report.

8 CONCLUSION

8.1 Having had regard to the above, it was considered that although the development in itself would not result in a significant loss of amenity to local residents nor impact detrimentally on the character and appearance of Chislehurst Conservation Area or on parking in the area, it would lead to a risk of unacceptable harm to valuable trees on the site which are considered to be of significant value to the Conservation Area.

8.2 Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: PERMISSION BE REFUSED

The following reasons are recommended:

1 The proposals would result in unacceptable harm to valuable trees on the site which are considered to be of significant value to Chislehurst Conservation Area, thereby contrary to Policies 43 and 73 of the Bromley Local Plan.