



## Minutes of the Extraordinary Parish Council Meeting

Held on Thursday 10<sup>th</sup> August 2023 at 6pm p.m. in Claygate Village Hall

**Present: Chairman: Cllr Sue Grose, Cllr Holt (Vice Chair), Cllr Herbert, Cllr Collon, Cllr Swift, Cllr Freeborn, Cllr Moon, Cllr Gil Bray,**

**In Attendance: Locum Clerk & RFO Ron Spurs and approximately 90 x members of the public.**

### **Item:**

**1. To accept Apologies for absence.**

Cllr Marcall and Cllr Twells submitted Apologies.

**2. To receive declarations of interest in items on the Agenda.**

None.

**3. To confirm the minutes of the Extraordinary Parish Council meeting held on 8<sup>th</sup> June 2023.**

Proposed by Cllr Grose and seconded by Cllr Herbert – Confirmed by a unanimous vote.

**4. To discuss and Approve any actions regarding the proposed development at the Torrington Lodge Car Park.**

The Chair provided an outline of the discussions between Claygate Parish Council (CPC), and Elmbridge Borough Council (EBC). Notes of these discussions have been circulated on the Council website.

- Cllr Grose stated that the development should be “pulled or paused”. EBC would need to call an Emergency Cabinet to do that.
- CPC was not made aware of this development prior to announcement in June by Cllr McDonald.

- No secret meetings no decisions regarding CPC steer or view had taken place. CPC acknowledges shop keepers “point in time” survey should be surveyed in more detail.
- CPC has asked EBC to pull or delay, no final signature

Cllr Herbert stated that EBC Officers stressed they had approval from Cabinet and the Council to sign this document.

The following points were made:

- Where is the point of signature with Kilo properties. The DFA is in the remit of EBC but they have not done so , Emergency cabinet required to delay
- The development site is subject to a 15 year lease, EBC retain ownership of land.

Members of the Public who had submitted questions to the Council prior to the Meeting were invited to speak.

Mr Frank Brierley outlined his question which was set out in the attached email:

“I wish to query the process whereby EBC handled their approach by Marks & Spencer to locate a Food Hall on the Torrington Lodge car park over a period extending at least since 2021. I give two examples of what I mean.

During most of that period, the interest of both M&S and of EBC to build a large M&S store on Torrington Lodge car park has been kept secret from Elmbridge residents, and even from Claygate Parish Council. That must surely contravene the Parish Charter between the two councils. The Charter states: “The Councils ... are keen to see efforts made ... to encourage greater public participation in local affairs”, and “EBC will involve the Parish Council in the preparation and delivery of the Community Strategy, specifically as to how [it] affects the parish of Claygate.” The afore-mentioned secrecy, and the tardiness with which the M&S Food Hall project was brought to public attention, can be seen to be entirely contrary to the stipulations of the Charter.

Moreover, the way in which a prospective Planning Application on behalf of M&S was welcomed as “a great idea” by Bruce McDonald, leader of Elmbridge Council, appears to demonstrate a conflict of interest as defined in the Town and Country Planning General Regulations 1992, as amended (“the 1992 Regulations”). Those regulations separate the Local Planning Authority (LPA) role, i.e. that of EBC’s Planning Dept, from the executive role, my way of referring to the roles of those who are ‘responsible (wholly or partly) for the management of any land or buildings to which the application relates (for example commercial strategy and management of the outsourced parking

management contract, but also extending to roles which may be engaged by provision of future services on the site such as social housing)'. The leader of Elmbridge Borough Council can hardly divorce himself from all those responsibilities. It is prescribed under the above-mentioned Regulations that 'Any person involved in managing the current car park does not give any instructions to, or put any pressure upon, any person acting or assisting in the handling of the planning application, or attempt to do so'. The Elmbridge Council leader's public expression of support for the car park can hardly escape being construed as putting some pressure on the Council's officers.

I would therefore ask the Parish Council if they have considered whether these, and other irregularities I could mention, vitiate the integrity and possibly the validity of a prospective planning application by Kilo Properties on behalf of Marks & Spencer. The reasoning for your answer would be appreciated."

Cllr Grose stated that Mr Brierley's comments were highly pertinent, in regards to Bruce McDonald, Cllr Grose urged Mr Brierley to write to him and ask him to respond, Cllr Grose stated that it is not her place to comment on any statement he and other Councillors have made. We left them in no doubt about our view that this process lacked public consultation and lacked due process.

The key point is that the proposal needs to be "pulled" or paused Adam Chalmers Chief Exec stated that it is within the art of the possible that we can pull this deal but we need an Extraordinary meeting of the EBC Cabinet to do this, but I will come back to you. It may take a couple of weeks.

If they go ahead regardless then we will have to consider it when a planning application is made.

At the moment we are minded by where the weight of our opinion must be. We cannot pre-determine an application.

Cllr Moon stated that CPC does not have a view until it votes for one.

Two Councillors (EBC), are on Planning Committee of EBC CPC is in a different position, deciding our own view.

Mr Julian Goodban

"I would be grateful if the following questions could be raised at the EGM this evening:

Does the CPC want to pause and stop the proposed development in order understand how the proposal may affect the health, vitality and viability of Claygate and other centres and to consider potential alternative options that may be more beneficial?

Rather than objecting to an impending planning application will the Parish Council make formal representations requesting that EBC does not sign the DFA until further feasibility assessments are undertaken?"

It was stated that the development plans stem from Cabinet meeting in November, no agenda, no minutes.

Claygate is in the dark we don't know how EBC said this was the right thing for Claygate. EBC needs to demonstrate best value, to deal with a single party is illogical and does not evidence best value, nothing to compare.

There may be a scheme which is better, so I would like to understand from EBC to ask CBC how have they assessed the viability of this centre and how have they considered those alternative options.

The CPC should be making formal representation requesting that EBC does not sign developers agreement. Retail is part of Local Plan, this is for residencies. Why does Claygate need another Anchor store, how does that interact to any decision making EBC will make.

Cllr Grose stated that CPC was unequivocal in its view and EBC was left in no doubt that this is "pulled" and does not go to full signature. There is a need for a full options appraisal with a full level of understanding of the enduring revenue over 5-10 yrs over a number of options. No options appraisal in public domain.

Cllr Grose stated she has submitted a FOI request to EBC regarding any or all meetings and decisions re Torrington Lodge.

Regarding the "Anchor Store" it was stated that CPC refutes the argument that this will be an Anchor Store. This term is used by other retailers and M&S relating to very large premises. M&S said they would never use that determination for that store. EBC claims it is a town centre.

Cllr Grose stated that M&S would not support a claim that it would increase footfall to a High Street, this is a standard M&S position. There needs to be a Health and Vitality assessment.

Mr Nigel Cartwright

"I would like to ask the following question regarding the proposed M & S development in Torrington Lodge car park :

'Why is this the only 3 storey building in Claygate being proposed? The elevations will show the height is too high and car park slopes upwards as well, why is this acceptable?

Height of this development why is it the only 3 storey building plan for Claygate.”

Cllr Grose responded that we don't have a planning application to view at this time.

Mr Adrian De La Touche

My two brief questions are as follows:

1. Why has no robust Retail Assessment impact taken place to see what the impact on the Parade could be? Will one be undertaken by and Independent consultant.
2. The CPC have stated that they want a Torrington Lodge Working Group to be formed to work through the options and determine the most appropriate outcome for the car park
  - Is that still going ahead and if so when with what remit?
  - If so who will be on it and will any of the public or CVA be invited to join?

Mr De La Touche thanked the Council for the work they are doing and went onto ask why no independent assessment why has it not been undertaken? From Kilo's previous development, they don't do these as they are out of town. Regarding the Working Group, questions around remit, timing, membership.

EBC will not respond to the FOI if it relates to commercial information.

Cllr Grose stated that some level of response need to come back to us.

At this time we don't know if EBC will agree to a Working Party or what it will look like. Claygate has a proven past in challenging applications.

Cllr Marcall is the Council link between CVA and CPC.

Mr De La Touche stated that EBC have decided to push this through where they do not have to assess the impact on Claygate.

Ms Linda Wells.

'The Development Funding Agreement (“DFA”) is pending signature having already been approved by EBC cabinet. What is the latest from EBC on

whether they will stop the signing of this contract in order to pause, reflect and consult and research properly?'

You have said that CPC is urging that there is an Extraordinary Meeting of the cabinet. This said, Autumn Planning, it is now the summer.

Cllr Grose stated that there is no protocol to hold an emergency Cabinet meeting, in light of the volume of objections received re process and lack of public consultation it is incumbent upon them to hold an emergency Cabinet, EBC Councillors have to ask for it, that is out of our remit.

CPC held a public meeting , that caused a pause in itself. The legality is it can be signed off.

Cllr Moon stated that if both parties are happy then they will sign the agreement as soon as they are legally happy. An Emergency Cabinet meeting of Cabinet is required to stop it.

Cllr Bray stated that Chief Legal Officer stated this agreement would be signed this week, not so far. Keep writing your objections. Document seems to indicate that they will go ahead.

Mr Ken Barltrop stated he echoed appreciation of efforts what you are doing. Why was so little info provided by Cllr Rollings?

Caroline Stevenson stated that the public should write to all Councillors they wish to, thank you for CPC doing this.

Ms Jenny French

Ms Jenny French noted that the Minutes of meeting held on Thursday state that Cllr Waugh "asked why CPC has not challenged the proposed development when they were first informed by EBC in Nov 2022." It was said by another party that CPC did not know about that about development until June.

Cllr Bray stated the detailed facts are that on Nov 4<sup>th</sup> 2022 EBC's Head of Legal & Governance sent an email to the Parish Clerk to alert CPC to a Cabinet Meeting Agenda Item which was a mixed retail and development proposal at Torrington Lodge car park. She stated that a report on the matter was confidential and that, as such, she could not provide CPC with a copy. She stated, however, that, when commercial confidentiality allowed, she would provide further details. He noted that this had all appeared in the Feb '23 issue of The Courier. No further details were provided and the next CPC heard was Cllr McDonald's FB post.

Mr Leonard Richardson stated that he would like to make the point that many hundreds of residents have complained to EBC and not received a proper reply.

People are demoralised that they have not received proper replies.

Cllr Grose submitted the following Proposal to the Council:

CPC firmly believes that Elmbridge Borough Council (EBC) should not sign a Development Funding Agreement (DFA) with Kilo Properties Ltd (Kilo) on the proposed development of Torrington Lodge car park.

CPC acknowledges that this requires EBC to reconvene a Cabinet meeting in order for the DFA to not progress to final sign off and it remains of an unswerving view that an emergency cabinet is called.

CPC acknowledges that Torrington Lodge car park is an area identified for development and believes that the next step must be for EBC to conduct a full options appraisal with open public consultation.

CPC is unreservedly committed to representing the residents of Claygate and being a clear palpable voice in regard to Torrington Lodge. The Parish Council is keen to stress that your voices are being heard and that we will continue to update regularly as to any information we receive.

The Proposal was proposed by Cllr Grose and seconded by Cllr Swift.

Cllr Collon stated that he was concerned that it was not clear what we propose to do. I am not moving an amendment; we can decide what we will do in the future. Cllr Collon did not agree with the comments regarding pre determination.

Cllr Bray stated this was a proposal for action

Cllr Holt stated that people have talked about full options appraisal and Health and Vitality appraisal in terms of planning as we go forwards we are really clear that they are different things.

The Proposal was passed unanimously by the Council.

Cllr Bray stated we have met previously as a group of Councillors, we did agree that we should commission a planning consultant to help us with this going forwards.

Proposed by Cllr Grose and seconded By Cllr Swift. This proposal was passed unanimously.

Cllr Collon said that a cabinet needs to be endorsed by the EBC Council as a whole not just the cabinet.

Cllr Bray stated that it went to full Council in a closed session, not minuted.

Helen Goodwin asked to speak.

Ms Goodwin stated that she worked with local authorities it appears that EBC has not followed proper processes and procedures.

5. **To review the delegation arrangements to Committees, Employees and other local authorities.**

Proposed by Cllr Grose, seconded by Cllr Moon. The vote was unanimous.

6. **To confirm the terms of reference (Remits) of the Planning, Highways, Transportation and Environment and Staffing Committees and Communications Working Party.**

The ToR were agreed Proposed by Cllr Grose seconded by Cllr Swift.  
The vote was unanimous .

7. **To review, reaffirm and adopt the Council's: Standing orders, Financial Regulations, Members Code, Members Code of Conduct, Health & Safety Policy, Freedom of Information Policy, Freedom of Information, Publication Scheme, Risk Management Policy and Assessment, Document Retention Policy, Data Protection Policy, Privacy Policy, Dignity at Work Policy, Complaints Procedure, Media & Communications Policy, CIL Policy and Guidance, Grants Policy and Guidance, Sickness at Work Policy, (See Council Website Policies), Register of Interests and the Hospitality Register. (Attached). In relation to Communications Working Group proposal see document attached. Please note that all of the policies described have been previously circulated or are available on the Council website.**

Cllr Holt stated that she did find areas where policies need updating.

Cllr Bray stated that one or two documents per meeting assigned and then brought back to Council.

Cllr Collon stated he was not happy with this proposal..

Cllr Holt stated that she is the only person who has noted that the documents need to be changed. She stated she will forward to the Clerk details of her research.



Cllr Grose proposed that the matter is discussed at the Strategy meeting on 16<sup>th</sup> September and she requested that all Councillors read the policies in good time to land any changes.

Cllr Grose proposed that the Policies are Approved but reviewed at the Strategy meeting. Cllr Bray seconded. Passed unanimously.

**8. To consider the introduction of a Councillor Policy Approval tracking document.**

After discussion this matter was referred to the Strategy day meeting on the 16<sup>th</sup> September.

**9. To make arrangements with a view to the Council becoming eligible to exercise the General Power of Competence in the future.**

Cllr Grose proposed and Cllr Swift seconded that the matter is carried forward to the next Parish Council meeting by which time an options appraisal will be completed. Unanimous vote in favour.

**10. To consider the re-signing of the Council to the Civility and Respect Pledge.**

Proposed by Cllr Grose, seconded by Cllr Holt Majority vote in favour. Cllr Moon abstained.

**11. To review and agree the remit, process and responsibility for the Parish Council's Facebook going forth.**

Proposed by Cllr Grose, seconded by Cllr Swift that Cllr Holt carries on managing the Facebook account, the Clerk will have overall control of the FB site. Majority vote in favour, Cllr Collon abstained and Cllr Herbert abstained,

**12. Agree the format and Agenda of the proposed strategy workshop on Sat Sept 16<sup>th</sup> – Cllr Donna Holt to act as facilitator.**

Proposed by Cllr Grose and seconded by Cllr Swift that Cllr Holt facilitates the event. Unanimous vote in favour.

**13. To Approve/Not Approve the following:  
Co-option of Mr. Jonathon Stokes – to be co-opted onto both the Planning Committee and to the Environment, Highways and Transport Committee.**

Co-opted members of the public.

Mr Jonathan Stokes, Planning and EHT Committees.

Proposed by Cllr Grose and seconded by Cllr Swift.

This was agreed by a majority vote.

Ms Diane Leakey and Mr Alan Leakey coopted onto the EHT Committee

This was Proposed by Cllr Grose and seconded by Cllr Swift

This was Approved by a majority vote.

**14. To consider the question of trees and shrubs overhanging pavements and possible actions to improve matters.**

This matter was moved to the Planning Committee to consider.

The Meeting concluded at 2045 hrs.

Signed: .....Chair

The Minutes are a true record of the Meeting.

Date:.....