



Caring for Claygate Village

DRAFT MINUTES

PLANNING COMMITTEE MEETING held at 7.30pm on Wednesday 20th April in Claygate Village Hall.

Present: -

Chairman of the Committee: Gil Bray
Committee Member Councillors: Michelle Woodward, Janet Swift
Non Committee Member Councillors: Mark Sugden, Brian Rawson
Co-opted members: Michael Collon
In attendance: Sally Harman (Parish Clerk & RFO), Philippa Jarvis Planning Consultant, 1 member of the public

The Chairman of the Committee introduced Philippa Jarvis a Planning Consultant who had been invited to the meeting to assist the Parish Council on its response to the Draft Local Plan should Cllrs decide that is the route they choose to pursue. He reiterated that all Parish Councillors had been invited to attend the meeting as per AP64. He reminded Councillors that Non-Committee Councillors could speak when invited to by the Chairman but could not participate in any vote.

1. **Apologies for absence**

John Bamford had sent his apologies in advance of the meeting. Cllr Wang had noted that he was aiming to attend the meeting but would be late. He did in fact not make the meeting in the end.

2. **Declarations of Interest in items on the agenda.**

2.1 To receive Declarations of Interest from Councillors in items on the agenda.

Cllr Swift noted that she was friends with the owners of 17 Old Claygate Lane.

2.2 To note written requests for dispensations received 7 days prior to the meeting:

None

2.3 To note decisions made on any dispensation requests noted in agenda item 2.2:

None

3. **Minutes of the last meeting (24th March 2022)**

Cllr Bray noted Philippa Jarvis's name had been spelt incorrectly under Section 12. Cllr Swift noted that under Item 16 Matters for Information purposes she had only mentioned the word 'caravans' and did not specify 'travellers' caravans'.

It was **unanimously agreed** that the minutes could be approved with the 3 amends and that the Chair could sign the minutes, witnessed by the Clerk.

4 **To report on actioning of items from previous meetings.**

AP49 Clerk to invite Tree Wardens to Planning meetings bi-annually and Tree Wardens to attend Planning Committees if deemed necessary going forth. **ONHOLD** Next invite June 2022.

AP58 Clerk to prepare a double sided A4 Planning Remit and Public Speaking Guidance Handout for Claygate Community Day on 23rd April. **DONE.**

AP63 Cllr Bray to circulate slides from Tim Naylor the Director of Strategic Planning & Infrastructure Royal Borough of Kingston, if he receives them. **OUTSTANDING**

AP64 Clerk to move meeting from the 21st April to the 20th April and to notify the full council of Philippa Jarvis's attendance. **DONE**

AP65 Cllr Bray to update Paul Falconer, EBC Planning Department, on the contacts he had made with 5G mast providers to ensure alignment and to continue to try and secure roll out plans and/or engagement from providers. **ONGOING** Update under Item 13.

AP66 Clerk to chase Kim Tagliarini on next step response from Bi-Annual meeting. **DONE** Discuss under Item 14

AP67 Clerk to get emergency number from EBC to call if an unlawful encampment occurs. **DONE** EBC online form has to be completed.

Under Standing Orders 10 a vi the Chairman motioned to move Item 14 up the agenda to take place after Item 5 and then for the agenda to return to its original order. This motion was agreed in a majority decision.1 Cllr abstained.

5. Elmbridge Local Plan and agree any action required.

Philippa Jarvis spoke. She introduced herself to the Committee noting that she had worked in local authorities and private practice and had worked directly on Local Plans and advised clients on making Representations. So far, her role with regard to the EBC Local Plan had included providing advice at Regulation 18 stage which looked at the various options and sites specific to CPC. EBC were now at Regulation 19 Representation stage. This stage is the last opportunity to make Representations (though limited to specific matters namely legality and soundness) before the plan is submitted to Secretary of State (Planning Inspectorate) and going forward for Examination as necessary. She noted that Regulation 19 requires the Draft Local plan to be published before submissions with the purpose to allow further Representations to be made, specially on whether legal/procedural and soundness tests have been satisfied as set out in the National Planning Policy Framework (NPPF). The plan must be:

- Positively prepared – provide a strategy which as a minimum seeks to meet the areas assessed housing need and is informed by agreements with other authorities relating to any unmet need.
- Justified – provides an appropriate strategy taking into account reasonable alternatives, based on proportionate evidence.
- Effective – deliverable over the plan period; based on effective joint working as evidenced in the statement of common ground.
- Consistent with national policy – enabling the delivery of sustainable development in accordance with the NPPF and other relevant statements of national policy.

Philippa noted the key points of the Elmbridge Draft Local plan as follows: -

- Takes a more pro-active stance on climate change
- Seeks to emphasise protection of the natural and built environment. It does not propose to release / build on Green Belt
- Delivering homes for residents (however only makes provision for 73% need by optimising existing brownfield sites and encouraging other appropriate development opportunities, including in town and village centres)
- Growing a prosperous economy
- Delivering infrastructure and connectivity

She then took the Committee through the possible next steps after this meeting: -

- Following local elections, the Draft Local Plan has a 6 week Representation period anticipated to commence at the start of June as per the EBC website. All documents forming ‘the plan’ will be available then. Much of the evidence base is already available but other documents are missing.
- CPC (and any individual) is able to submit comments that must address the key points (legal, procedural, soundness). Philippa noted that she can assist the CPC in drafting their response following the envisaged Public meeting.
- All Representations are collated and submitted alongside the plan, plus any proposed modifications which is expected to be in the Autumn.
- Planning Inspectorate then undertake examination and schedule hearings (expected to be Winter 2022). The Inspector will initially consider ‘big issues’ – Duty to Cooperate, housing numbers / plan strategy – and may issue comments on these before any hearings take place (or may choose to hold hearings on just these issues to start with). If required, Philippa noted that she can attend the relevant hearing session on behalf of the CPC.
- The Inspector may find any of the following:

- i. that the plan has failed to satisfy the Duty to Cooperate or other legal requirements which means that it cannot be taken forward or
- ii. that its strategy needs to be revised before it can proceed in which case the Inspector would normally set out what is required to be done and give the Council the opportunity to respond and / or carry out any further work needed.
- iii. that it can proceed and further hearing dates arranged to discuss the outstanding issues.

Philippa agreed to circulate her speaking notes to the Committee. Cllr Swift noted that she believed the EBC Draft Local Plan to be a gamechanger and ground-breaking. She urged her CPC colleagues not to sit on the side lines. Cllrs and Co-opted members then went on to ask a number of questions to which Philippa responded as follows. She confirmed that whilst government planning ideas do keep changing the actual Planning Policy had not. The rules remained the same. She confirmed that she could enable CPC to show support for the plan even though it doesn't meet the National Housing target requirements. She noted that the Planning Inspectorate wouldn't pick up on individual housing areas being under housing target requirements and would tend to look at the Borough as a whole. She confirmed that CPC would be able to see developers' Representations but would not be able to respond to them. She confirmed that if the Planning Inspectorate turned down a plan due to not meeting housing needs it may have to go back to the start of the process and resident consultation would start again.

Cllr Bray noted that the purpose of Philippa Jarvis attending the meeting that evening was to discuss and agree her role in the Draft Local plan process going forward. Cllr Swift suggested CPC use EBC Lawyers. Cllr Bray responded by suggesting that residents would probably not think it sensible for CPC to seek advice on the Draft Local Plan from the very organisation that had prepared it and that the point of engaging Philippa Jarvis was that she would be providing independent advice. He proposed Philippa Jarvis continue to support CPC's response to the EBC Draft Local Plan process as follows. The work could fall in to 2 blocks. Block 1 of work was for Philippa: -

- to read and digest existing data,
- read and digest the currently unavailable Evidence Base material on publication by EBC,
- attend the Claygate Village Public Meeting to be able to respond to residents' questions
- and draft representations which reflect residents and CPC views.

Block 2 of work would be for Philippa

- to attend the Examination in Public at the later stage of the process if CPC felt that to be desirable.

Philippa confirmed that Block 1 would take 3-4 days of her time so circa £2100- £2800 ex VAT and Block 2 would be 1-2 days so £700 to £1400 ex VAT.

It was **unanimously agreed** that Block 1 (read and digest existing data, read and digest the currently unavailable Evidence Base Material on publication by EBC, attend the Claygate Village Public Meeting and then draft representations which reflect resident and CPC views) be actioned by Philippa Jarvis for a cost of up to £2800 ex VAT and that Block 2 (Philippa to attend the Examination in Public) for a cost of up to £1400 ex VAT be actioned if CPC feel it is desirable.

14. **Clarification of rules for when Planning Applications go to EBC sub-committee and agree any action required.**

The Clerk had circulated an email she had received from Kim Tagliarini, Head of EBC Planning, which noted that a revised Scheme of Delegation had been approved in July 2019 about which EBC had failed to both consult and notify CPC. The revisions to the Scheme of Delegation were as follows:

- a) Unless referred by a Councillor all householder applications will be determined by officers. There will be no objection letter trigger for householder applications.

- b) Minor applications (2-9 homes) with 15 or more objection letters will trigger referral to Area Sub Committee.
- c) Removes the requirement for minor applications with more than 40 letters of objection to be referred to Planning Committee. The decision stays with Sub Committee.
- d) Major applications (10+ homes) with 20 or more objection letters will trigger referral to Planning Committee. It will not go to Sub Committee first.
- e) Permission in Principle applications will be brought to Sub Area Planning Committees.
- f) All applications can be referred to committee by a member. This was amended in Dec 2020 when a 28 day cap was added to this criteria.

Kim noted that one of the key changes was to reduce the number of householder applications being referred to Sub Committee. Sub Committee scrutiny would be reserved for application of 2 or more new homes (minor development) or commercial development. As such the threshold for objection letters for household applications were removed, this included the threshold of an objection from the Claygate Parish Council. Ward members can still refer contentious householder applications to sub committee but the automatic trigger has been removed.

A report digesting Kim Tagliarini's email, the EBC Constitution and EBC website had been prepared by Michael Collon (Appendix B), following request from the Cllr Bray and circulated to the Committee in advance of the meeting. In addition, Cllr Bray had circulated the latest Elmbridge Planning User Group's presentation from Paul Falconer, EBC Development Manager dated 24th March 2022. Michael Collon had informed the Committee in advance of this meeting that Paul's presentation showed that one new dwelling is categorised as a Minor Application rather than a Householder Application. The presentation also suggests that in the case of a Permission in Principle application a CPC objection will result in the application going to East Area Sub-Committee. The Committee noted that this is not what the EBC Planning Committee agreed in 2019 or 2020, was not in the EBC Constitution or on its website, or in Kim's Tagliarini's email that she had sent the Clerk.

Cllr Bray proposed that in light of the conflicting information being communicated from EBC, CPC should write to Kim Tagliarini to note that CPC is keen to align with EBC policy but CPC needed clarity on a single target. He proposed that the presentation prepared by Michael Collon (Appendix B) and the Paul Falconer presentation should be sent to Kim to highlight the discrepancies.

Cllr Swift said she would not debate the issue and got up to leave the room. The Clerk noted that, if she left the room, then the Committee meeting would not be quorate and no debate could take place.

20h18 Cllr Swift left the room.

The Clerk advised the Chairman that no debate could now take place so he could consider moving the agenda item back down the agenda or moving it to the next Planning Committee meeting should he choose to propose it.

20h20 Cllr Swift re-entered the room.

Under Standing Orders 10 a vi the Chairman motioned to move Item 14 back down the agenda to take place after Item 13. This motion was agreed in a majority decision. 1 Cllr abstained.

The Clerk reiterated to the Committee that if only 2 Cllrs remained in a meeting, then no business could be discussed.

6. Planning correspondence, notification of applications and outstanding results.

In addition to correspondence shared within Action Points (APs) and further down the agenda the Clerk had secured extension from EBC Planning Department for CPC feedback until the 21st April for 2022/0476 - Gastons 1 Beaconsfield Road. She had also been copied in an email from Nathalie Lynch, EBC Planning Department, who had checked with a colleague whether CPC had provided

feedback on 2022/0467 31 Foley Road. The Clerk had confirmed back that a response would be with them on the 21st April.

7. Applications and Appeals decided since last meeting.

A report by John Bamford (Appendix A) had been circulated to the Committee ahead of the meeting. The Planning Committee noted the report. Cllr Woodward asked whether the Tree Wardens had any commentary to add.

AP68 Clerk to ask Tree Wardens if they have any comments on John Bamford's report.

8. Applications from Elmbridge Borough Council Weekly Lists

(<https://www.elmbridge.gov.uk/planning>) including confirmation of comments sent to EBC: -

w/e 25th March, 1st April, 8th April & 15th April

<u>Application Number</u>	<u>Address</u>	<u>Proposal</u>	<u>Claygate Parish Council Response</u>
2022/0476	Gastons 1 Beaconsfield Road Claygate Esher Surrey KT10 0PN	Pergola.	No Objection, No Comment. Unanimously agreed.
2022/0467	31 Foley Road Claygate Esher Surrey KT10 0LU	Single-storey side extension, alteration of single-storey front projection from pitched to flat roof, rendering of entire house, timber cladding to ground floor front elevation, alterations to fenestration and solar panels.	No Objection, No Comment. Unanimously agreed.
2022/0617	10 Cavendish Drive Claygate Esher Surrey KT10 0QE	Retrospective Variation of Condition 3 (Materials) of planning permission 2020/3287 (Front and side extensions) to amend the type of roof tiles.	Object with Comment. CPC believe the existing construction is still in breach of compliance. Majority agreed. 1 Cllr abstained. Cllr Swift noted that in her opinion the decision should be left to EBC Officers.
2022/0881	Claremont Place Church Road Claygate Esher Surrey KT10 0JD	Tree Preservation Order EL:03/23 - Various works to various trees.	No objection. Unanimously agreed.
2022/0956	5 Claremont Road Claygate Esher Surrey KT10 0PL	Claygate Foley Estate Conservation Area - Fell 1 x Oak stem and 1 x Pear.	No objection. Unanimously agreed.

2022/0552	8 Oaken Lane Claygate Esher Surrey KT10 ORE	Single-storey side extension, alter roof of existing rear elevation from flat to pitched and alterations to fenestration.	No Objection, No Comment. Unanimously agreed.
2022/0391	7 Coverts Road Claygate Esher Surrey KT10 OJY	Single-storey rear extension, alterations to fenestration and new chimney following removal of existing chimney.	No Objection, No Comment. Unanimously agreed.
2022/0447	19 Ruxley Ridge Claygate Esher Surrey KT10 OHZ	Single-storey side infill extension, extend existing garage with room above, front dormer window and alter garage door.	No Objection, No Comment. Unanimously agreed.
2022/0672	17 Old Claygate Lane Claygate Esher Surrey KT10 OER	Single-storey rear/side extension incorporating part first-floor side extension.	Cllr Swift noted she knew the owner who was a friend and as such would not participate. The Clerk noted that her understanding was that as only 2 Cllrs remained to debate this Planning application it was her understanding that a vote wouldn't be valid due to not being quorate and for Cllrs to move on to the next planning application. The remaining Cllrs were happy to move on.
2022/0559	24 Glenavon Close Claygate Esher Surrey KT10 OHP	Front dormer window and rear dormer, changes to fenestration, weatherboard cladding at rear, render at front and sides and internal changes following demolition of existing rear dormer.	No Objection, No Comment. Unanimously agreed.
2022/0734	1 Oakhill Claygate Esher Surrey KT10 OTG	Two-storey front extension and front canopy porch.	No Objection, No Comment. Unanimously agreed.
2022/0770	16 Gordon Road Claygate Esher Surrey KT10 OPQ	Single-storey rear extension part two-storey side extension and first-floor side extension	No Objection, No Comment. Unanimously agreed.

		following partial demolition of existing house.	
2022/0683	18 Gordon Road Claygate Esher Surrey KT10 0PQ	Two-storey side extension, rear dormer window and alterations to fenestration and front porch.	No Objection, No Comment. Unanimously agreed.

AP69 Clerk to clarify the quorate rules of Cllrs of being in the room but not participating due to a personal interest, such as knowing the owner as a friend, in a discussion regarding a planning application.

9. East Area Sub Committee Meeting report.

Nothing to note for Claygate.

10. EBC Planning Committee Meeting Report.

Nothing to note for Claygate. Cllr Bray noted the next EBC Planning Committee was on the 28th April 2022.

11. Licensing Applications in Claygate.

The Clerk had circulated a licensing alert she had received from EBC referencing the transfer of licence WK/202201623 Jolshiri Fine Indian Cuisine, The Green, KT10 0JQ to Veitoun Lebanese Ltd prior to the meeting. The Committee noted it.

12. Compliance issues.

The Committee noted that there are 3 Compliance cases open with EBC: -

- 1 Caerleon Close – The Clerk had received no further update.
- 10 Cavendish Drive - Retrospective Variation of Condition 3 (Materials) of planning permission 2020/3287 (Front and side extensions) to amend the type of roof tiles has been submitted to EBC.
- 52 Common Road- EBC Compliance department had written to the Clerk to advise that the porch being erected at the above development does not require permission. It is in keeping with neighbouring properties within the street.

Cllr Swift asked if Compliance issue raising at the Planning Committee could have the address validated by two Cllrs before being submitted via the Clerk to the EBC Compliance department going forth.

It was **unanimously agreed** that addressed with Compliance concerns should be validated by 2 Cllrs before being submitted to EBC Compliance Department.

13. 5G Masts and agree any action required.

Mobile UK had sent contact details for EE, Three, Virgin Media O2, Vodafone to Cllr Bray. Cllr Bray had emailed the contacts he received and updated the Committee on the responses he had received so far: -

- O2 – They do not have a date for 5G extension to Claygate but will ask the site acquisition and network management teams to include Claygate Parish Council in the pre-planning consultation, so

the Council has the opportunity to make their views known on planning applications that may be submitted to bring O2 5G to Claygate.

- Vodafone - Claygate is not included in our immediate plans for 5G rollout. Should this change, they will let us know.
- BT - If they action deployment plans in our area in future then they are happy to update CPC.

He confirmed that he had been sharing any communication and contacts he had received with Paul Falconer at EBC Planning.

Cllr Swift noted she had been speaking to Paul Falconer at EBC Planning Department. The Clerk reminded Cllrs that Cllrs should be agreeing communication channels & content with external organisation and parties in Parish Council meetings and Committees. Cllrs could by all means communicate as a resident but to ensure clear, consistent and transparent communication, Parish Council matters needed to be agreed by the full Parish Council or Committees in advance and responses brought back for all Cllrs to be privy to as demonstrated by Cllr Bray this evening.

14. Clarification of rules for when Planning Applications go to EBC sub-committee and agree any action required.

The Chairman noted that this agenda item would be brought back to the next meeting.

15. Communication of key decisions to residents including input to the Courier and the website.

The Clerk updated the Committee that the next Courier edition was planned to land at the start of October. This could then allow for a leaflet drop to support Draft Local Plan communication if needs be in the Summer.

16. Matters for information purposes only.

The Clerk reminded Councillors that they had the following events coming up over the next 2 weekends: - Claygate Community Day Saturday 23rd April, Claygate Pavilion and Family Garden Opening Ceremony 24th April, Claygate Clean Up Day 30th April.

17. Date of the next meeting 19th May 2022.

The reserve Councillor who may be required to attend the meeting on 19th May Cllr Collon

Meeting Closed: 20h52

Signed:

Dated:

Appendix A

Report on Planning Applications Decided since the Last Planning Meeting

Applications Refused by Elmbridge Borough Council (EBC) excluding LDCs

No.	Address	Details	CPC
2022/0199	6 Vale Croft KT10 0NX	Tree Preservation Order EL:304 - Crown clean 1 x Copper Beech.	No Obj . No Comment
		<p>EBC refused part of the proposed work to reduce the canopy and remove lateral branches resulting in a crown width of 8.5m and 7.5m to 13m on the grounds that</p> <ul style="list-style-type: none"> Proposed works are likely to negatively impact amenity and the tree's longevity <p>EBC Noted:</p> <ul style="list-style-type: none"> Excessive pruning prescribed for T1 is considered disproportionate to achieve the required objective(s), will be unacceptably detrimental to the tree's health, natural shape and form, negatively impacting amenity and the tree's longevity. Excessive pruning often produces denser regrowth in healthy trees which forms a thicker crown than naturally produced by the 	
2022/0587	5 Merrillyn Close KT10 0EQ	Prior Approval Schedule 2, Part 1, Class A: Single-storey rear extension.	No Obj . No comment
		<p>EBC refused on the grounds that</p> <ul style="list-style-type: none"> The proposed extension fails to comply with the conditions, limitations and restrictions applicable to development permitted as the proposal joins with the existing first floor extension and would exceed 4 metres in height and extend more than 3 metres from the rear wall of the original dwellinghouse. 	

Other Applications Decided:- Nothing of especial significance

Appeals Decided:- None

Appendix B

Elmbridge Borough Council: Delegation of Planning Decisions

- This note considers the circumstances in which a formal objection to an application by Claygate Parish Council ("CPC") will result in the application being referred for decision to the East Area Sub-Committee or the Planning Committee of Elmbridge Parish Council ("EBC"), rather than being decided by a Planning Officer.
- Six documents are involved:
 - The explanatory note 15/19 put to the EBC Planning Committee on 23 July 2019 ("the Note");
 - Appendix B to that note, adopted by the EBC Planning Committee with amendments ("Appx B");
 - Scheme of Delegation Update Report 53/20 put to the EBC Planning Committee on 14 December 2020 ("the Update Report");
 - EBC Constitution, Part 3, Non-executive delegation, as amended (presumably by the Monitoring Officer using the powers in Article 15 of the Constitution) ("the Constitution");
 - EBC website in its current form ("the website");
 - Email of 7 April 2022 from Kim Tagliarini, EBC Head of Planning Services, to Sally Harman as Clerk of the CPC ("the email").

The relevant extracts are set out below. Some of the inconsistencies between them are important.

- Also set out are relevant extracts from the CPC Planning Committee Remit and Planning Process. They are inconsistent between themselves and will need amending once EBC have clarified the position.

Definitions

- Different rules on delegation, and on the consequences of a CPC objection, apply to different categories of application, but the definitions are sometimes inconsistent.

5. *Major applications* are those for 10+ dwellings or 1000sqm+ non-residential floorspace: see Appx B para 8, and the website. This is taken from the statutory definition of ‘major development’.¹ Sometimes the expression *major applications* is used without the definition (e.g. Appx B paras 1 and 6, and the Constitution which copies it). In the Note and the email an abbreviated definition (“10+ homes”) is used.
6. *Minor applications*. There is no statutory definition. The Constitution and the website refer to “Minor applications (1-9 dwellings or non-residential development less than 1000sqm)”. The Update Report (page 6) refers to “Minor applications (1-9 dwellings)”. However the Note refers to “Minor applications (2-9 homes)”; Appx B para 2 refers to “Applications for 2 to 9 dwellings or non-residential development less than 1000sqm” without saying that these are minor applications; and the email refers to “2 or more new homes (minor development)”. We need to clarify this; in particular, we need to be clear how applications for one new dwelling are classified.
7. *Householder applications*. The Note states that “Unless referred by a Councillor all householder applications will be determined by officers.” The email follows this. There is a statutory definition of “householder application”² but no definition in any of the EBC documents. The term does not even appear in Appx B, or the Constitution. This makes it all the more important to clarify whether an application for one new dwelling is, contrary to the statutory definition, treated as a householder application rather than a minor application.

References to East Area Sub-Committee

8. Until 2019 any application, major, minor or householder, to which CPC objected had to go to the East Area Sub-Committee for decision if the Planning Officer recommended allowing the application. The email says that “One of the key changes was to reduce the number of householder applications being referred to Sub Committee.”
9. *Householder applications*. In the case of householder applications this power of CPC, and the similar power of 15+ objectors, was removed without any consultation, and without informing us. The CPC website has been misleading ever since the new scheme took effect on 1 September 2019.
10. The new scheme has not been operated consistently. The Update Report, looking at the operation of the scheme on 14 December 2020, 15 months after it took effect, states (page 3):

“Under the revised scheme, householder applications can only be considered by Committee where they have been referred by a Ward Member, there is an objection from Claygate Parish Council or the application is by the Council, staff or Members. The number of householder applications has reduced, but Table 3 shows that a number were still considered by the Sub Committees. One application to East Area Sub Committee was considered due to an objection from Claygate Parish Council.”
11. It is not suggested in the Update Report that, under the new scheme, the objection from CPC should not have resulted in that application being referred to the East Area Sub-Committee. It seems however that the scheme is now being operated as intended, so that objections by CPC are ineffective to refer an application to the Sub-Committee.
12. *Minor applications*. Where the Planning Officer recommends allowing a minor application, a CPC objection still means that it has to go to the East Area Sub-Committee for decision. The same applies if there are 15+ objectors.

¹ The Town and Country Planning (Development Management Procedure) (England) Order 2015, SI 2015/595, article 2(1), <https://www.legislation.gov.uk/uksi/2015/595/article/2>

² Ibid: ‘householder application’ means (a) an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, or (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development, but does not include an application for change of use or an application to change the number of dwellings in a building.

13. *Major applications.* Where the Planning Officer recommends allowing a major application, a CPC objection still means that it has to go to the Planning Committee for decision. The same applies if there are 15+ objectors.
14. *Permission in Principle (PIP)* was only introduced in 2017, and there seem to have been no rules about delegation of PIP applications before 2019. The emails states: "Permission in Principle applications will be brought to Sub Area Planning Committees [sic]." This is a quotation from the Note, and gives the impression that all PIP applications always go to a sub-committee. However Appx B (as amended by the Planning Committee) states that it is only "Applications for Permission in Principle which are recommended for approval by Officers and there are objections from 15 or more households" which go to a sub-committee. The Constitution and the website both say the same. No document suggests that if CPC objects to a PIP application it should automatically be referred to the East Area Sub-Committee.

Next Steps

15. Before the CPC Planning Committee can decide what changes to make to the Planning Remit and Planning Process documents on its website, a number of points need to be clarified by the Head of Planning:
 - What is a "minor application"? Is it 1-9 new dwellings/homes, as in the Constitution, website and Update Report, or 2-9 dwellings/homes, as in the Note, App B and email? And if the latter, is an application for one new dwelling treated as a householder application, contrary to the statutory definition (see footnote 2 above)?
 - It is clear from the Update Report that, at least until December 2020, the revised scheme was operated so that an objection from CPC still resulted in an application being referred to East Area Sub-Committee. Does this still apply? And if not, is there any reason why it should not, given that such objections are very rare?
 - PIP applications go to the Sub-Committee if there are 15+ objections, but not if only CPC objects. There has been at least one case where CPC has objected but PIP has been granted by the Planning Officer. What is the reason for the discrepancy? Will the Head of Planning agree that an objection by CPC to a PIP application should be referred to the East Area Sub-Committee?

Michael Collon

12 April 2022

Scheme of Delegation: Papers put to EBC Planning Committee, 23 July 2019

Extract from item 15/19 Explanatory Note

The revision to the Scheme of Delegation would result in the following changes:

- Unless referred by a Councillor all householder applications will be determined by officers. There will be no objection letter trigger for householder applications.
- Minor applications (2-9 homes) with 15 or more objection letters will trigger referral to Area Sub Committee.
- Removes the requirement for minor applications with more than 40 letters of objection to be referred to Planning Committee. The decision stays with Sub Committee.
- Major applications (10+ homes) with 20³ or more objection letters will trigger referral to Planning Committee. It will not go to Sub Committee first.

³ Amended by the Committee to 15, and amendments accordingly made to paras 3 and 8 of Appx B. The email seems to have been copied from the Note and still refers to "20 or more objection letters".

- *New* Permission in Principle applications will be brought to Sub Area Planning Committees [sic].
- ANY APPLICATION CAN STILL BE REFERRED TO COMMITTEE BY A MEMBER. This will not change.

Extract from Appendix B, the Proposed Scheme of Delegation as amended and agreed by the Planning Committee on 23 July 2019

All Development Control Decisions as clarified below * are delegated to the Strategic Director responsible for Services except in the following circumstances:

Decisions Referred to the Area Planning Sub-Committees

1. All applications (except Major) 'referred' to a Sub-Committee by a Ward Member for the Ward within which the application is situated shall be done on a conditional basis. Referrals shall be submitted within 28 days of validation.
2. Applications for 2 to 9 dwellings or non-residential development less than 1000sqm which are recommended for approval by Officers and there are objections from 15 or more households or from Claygate Parish Council (if a petition, or an objection letter is received from an organisation such as a residents' association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).
3. Applications for Permission in Principle which are recommended for approval by Officers and there are objections from 15⁴ or more households.
4. All applications submitted by or on behalf of Members, the Council or Officers of the Council.
5. All enforcement action that, following consultation, has been 'referred' to a Sub-Committee by a Ward Member for the Ward within which the application is situated.

Decisions referred to the Planning Committee

6. Major applications 'referred' to the Planning Committee by a Ward Member for the Ward within which the application is situated, which shall be done on a conditional basis. Referrals shall be submitted within 28 days of validation.
7. Any two Members of the Planning Committee may refer an application from an Area Planning Sub-Committee to the Planning Committee provided that they have been present for the complete consideration of that application at the Area Planning Sub-Committee meeting.
8. Major applications (10+ dwellings or 1000sqm+ non-residential floorspace) which are recommended for approval by Officers where there are objections from 15⁵ or more households or from Claygate Parish Council (if a petition, or an objection letter is received from an organisation such as a residents' association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).
9. All departures from the Development Plan required to be referred to the Secretary of State.

***For the avoidance of doubt, this includes enforcement action, lawful development certificates, and Section 106 Agreements on applications to be determined by the Strategic Director of Services.**

Extract from EBC Constitution, Part 3, page 35

Non-Executive Delegations

Planning

All Development Control Decisions as clarified below * are delegated to the Strategic Director responsible for Services except in the following circumstances:

Decisions Referred to the Area Planning Sub-Committees

⁴ 20 in the original draft, amended to 15 by the Committee.

⁵ Ibid.

1. All applications (except Major) 'referred' to a Sub-Committee by a Ward Member for the Ward within which the application is situated shall be done on a conditional basis. Referrals shall be submitted within 28 days of registration.
2. Minor Applications or non-residential development less than 1000sqm which are recommended for approval by Officers and there are objections from 15 or more households or from Claygate Parish Council (if a petition, or an objection letter is received from an organisation such as a residents' association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).
3. Applications for Permission in Principle which are recommended for approval by Officers and there are objections from 15 or more households.
4. All applications submitted by or on behalf of Members, the Council or Officers of the Council.
5. All enforcement action that, following consultation, has been 'referred' to a Sub-Committee by a Ward Member for the Ward within which the application is situated.

Decisions Referred to the Planning Committee

6. Major applications 'referred' to the Planning Committee by a Ward Member for the Ward within which the application is situated, which shall be done on a conditional basis. Referrals shall be submitted within 28 days of registration.
7. Any two Members of the Planning Committee may refer an application from an Area Planning Sub-Committee to the Planning Committee provided that they have been present for the complete consideration of that application at the Area Planning Sub-Committee meeting.
8. Major applications (10+ dwellings or 1000sqm+ non-residential floorspace) which are recommended for approval by Officers where there are objections from 15 or more households or from Claygate Parish Council (if a petition, or an objection letter is received from an organisation such as a residents' association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).
9. All departures from the Development Plan required to be referred to the Secretary of State.

***For the avoidance of doubt, this includes enforcement action, lawful development certificates, and Section 106 Agreements on applications to be determined by the Strategic Director of Services.**

Extract from EBC website <https://www.elmbridge.gov.uk/planning/search-comment-participate/committee-subcommittee-meetings-and-decisions/>

Area planning sub-committee

The sub-committee will decide the following planning applications:

- All applications (except major) 'referred' to a sub-committee by a ward member for the ward within which the application is situated shall be done on a conditional basis giving a planning reason. Referrals shall be submitted within 28 days of registration.
- Minor applications (1-9 dwellings or non-residential development less than 1000sqm) which are recommended for approval by officers and there are objections from 15 or more households or from Claygate Parish Council (if a petition, or an objection letter is received from an organisation such as a residents' association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).
- Applications for permission in principle which are recommended for approval by officers and there are objections from 15 or more households.
- All applications submitted by or on behalf of members, the council or officers of the council.
- Householder applications will only be decided by sub-committee if referred by a ward councillor as set out above or if they are on behalf of members, the council or officers of the council.

Planning Committee

The Planning Committee will decide the following planning applications:

- Major applications 'referred' to the Planning Committee by a ward member for the ward within which the application is situated giving a planning reason. Referrals shall be submitted within 28 days of registration.
- Any two members of the Planning Committee have referred an application from an area planning sub-committee to the Planning Committee provided that they have been present for the complete consideration of that application at the area planning sub-Committee meeting.

- Major applications (10+ dwellings or 1000sqm+ non-residential floorspace) which are recommended for approval by officers where there are objections from 15 or more households or from Claygate Parish Council (if a petition, or an objection letter is received from an organisation such as a residents' association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).
- All departures from the Development Plan required to be referred to the Secretary of State.

Extract from email from Kim Tagliarini to Sally Harman, 7 April 2022

The revision to the Scheme of Delegation were as follows:

1. Unless referred by a Councillor all householder applications will be determined by officers. There will be no objection letter trigger for householder applications.
2. Minor applications (2-9 homes) with 15 or more objection letters will trigger referral to Area Sub Committee.
3. Removes the requirement for minor applications with more than 40 letters of objection to be referred to Planning Committee. The decision stays with Sub Committee.
4. Major applications (10+ homes) with 20 or more objection letters will trigger referral to Planning Committee. It will not go to Sub Committee first.
5. Permission in Principle applications will be brought to Sub Area Planning Committees.
6. All applications can be referred to committee by a member. This was amended in Dec 2020 when a 28 day cap was added to this criteria.

One of the key changes was to reduce the number of householder applications being referred to Sub Committee. Sub Committee scrutiny would be reserved for application of 2 or more new homes (minor development) or commercial development. As such the threshold for objection letters for household applications were removed, this included the threshold of an objection from the Claygate Parish Council. Ward members can still refer contentious householder applications to sub committee but the automatic trigger has been removed.

Extract from CPC Planning Remit on CPC website

Relationship with the Planning Authority [Elmbridge Borough Council]

1. CPC has no power to grant, or refuse, an Application for planning permission. These powers reside with EBC.
2. CPC is a statutory consultee for all Applications made for properties in Claygate to EBC. As such, it has the right to have its views considered by EBC.

In the event that the Parish Council objects to the application, Elmbridge Borough Council will send the application to either East Area Planning Sub-Committee or Planning Committee for consideration depending on the number of objections and size of development.

Extract from CPC Planning Process on CPC website

Most applications are decided by EBC Planning Officers. If residents wish to have their application considered by either EBC East Area Planning Sub Committee or EBC Planning Committee, they will need at least 15 letters of representation from different addresses. Alternatively, they can speak to their Ward Borough Councillor who may be able to raise it to either the East Area Planning Subcommittee or EBC Planning Committee. Planning applications of smaller dwellings, less than 10, are heard by EBC East Area Sub Committee whilst dwellings of more than 10 are decided by the EBC Planning Committee.

