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Elmbridge Borough Council

Planning Committee

Report of a meeting held on 23 July 2019

Members of the Committee:

\* Mrs. S.R. Kapadia (Chairman)  
P.M. Harman (Vice-Chairman)

*	D.J. Archer	*	Mrs. V. Macleod
*	A.P. Burley	*	Mrs. M. Marshall
*	B.J.F. Cheyne	*	Mrs. D.M. Mitchell
*	Mrs. C.J. Cross	*	Mrs. R. Mitchell
*	Mrs. C. Elmer	*	T. Popham
*	C.R. Green	*	Mrs. K. Randolph
*	C. James	*	Mrs. J.R. Turner
*	A. Kelly		

\* Denotes attendance

Substitutes:

C.R. Sadler (Substituting for P.M. Harman)

Also present:

Tricia W. Bland, Mrs. H.C. Butler, A. Davis, B. Fairbank, N. Houston,  
Mrs. C. Richardson, Mrs. M.C. Sheldon, Mrs. T. Shipley, Mrs. C. Sood, R.C.J. Williams  
and G.L. Woolgar

10/19 Declarations of Interest

There were no declarations of interest.

11/19 Minutes of the Planning Committee meetings held on 15 May and 11 June 2019

The Minutes of the meetings held on 15 May and 11 June 2019 were agreed as correct records and signed by the Chairman.

Matters of Report

12/19 Planning Applications

The Committee considered the reports of various meetings of the East, North and South Area Planning Sub-Committees.

Resolved that the reports of the East, North and South Area Planning

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Sub-Committees held on 17 June, 15 July 2019 be received and, except where already determined under delegated powers, the planning matters set out below be determined as follows:

(a) 2018/3749 – 6 Claremont Lane, Esher

The Committee considered the recommendation of the East Area Planning Sub-Committee in respect of this application. However Members, having reviewed the relevant material considerations, concluded that the proposed development, by virtue of its scale and layout would cause unacceptable harm to the character of the area.

Accordingly, the Committee

Resolved that permission be refused, contrary to the recommendation of the East Area Planning Sub-Committee, for the following reasons:

**Reasons for refusal:**

- 1) The proposed development is considered to be out of character with the surrounding area by virtue of the layout with rear gardens backing on to the main road and sizes of the proposed plots, both of which are not in keeping with the surrounding area. The proposal would therefore be contrary to Policy DM2 of the Elmbridge Development Management Plan 2015 and Policy CS17 of the Elmbridge Core Strategy 2011; and**
- 2) The proposed development, by virtue of its bulk and massing is out of character and overbearing which causes harm to the streetscene. The proposal would therefore be contrary to Policy DM2 of the Elmbridge Development Management Plan 2015 and Policy CS17 of the Elmbridge Core Strategy 2011.**

(b) 2019/0201 – Wood Cottage, 30 Green Lane, Cobham

The Committee concurred with the recommendation of the South Area Planning Sub-Committee in respect of this application.

Accordingly, it was

Resolved that permission be granted with conditions and informatives as outlined in the agenda.

(c) 2018/3782 – Claygate House, Littleworth Road, Esher

Additional information received from the agent providing clarity in respect of the HGV routing during construction and affordable housing.

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The Committee concurred with the recommendation of the East Area Planning Sub-Committee in respect of this application.

Accordingly, it was

Resolved that permission be granted with conditions and informatives as outlined in the agenda, subject to receipt of a satisfactory Section 106 Legal Agreement within 6 months of the Planning Committee to secure affordable housing. Should a satisfactory unilateral undertaking for affordable housing not be completed within 6 months of the Planning Committee, authority be delegated to the Head of Planning Services to refuse permission for the following reason:

1. The proposal would, by reason of the lack of a Section 106 Legal Agreement in relation to a financial contribution for affordable housing, would be contrary to the requirements of Policy CS21 of the Core Strategy 2011 and the Developer Contributions Supplementary Planning Document 2012.

(d) 2019/0016 – 15 Westcar Lane, Hershaw

One additional letter of objection had been received.

The Committee concurred with the recommendation of the South Area Planning Sub-Committee in respect of this application.

Accordingly, it was

Resolved that permission be granted with conditions and informatives as outlined in the agenda.

13/19 Planning Application No. 2018/1430 - 19 & 23 Church Road, East Molesey

Members were advised that at the meeting of the North Area Planning Sub-Committee on 4 February 2019 it had been recommended that permission be granted subject to the suggested conditions and an acceptable Section 106 Legal Agreement being received within 3 months of the date of the resolution. The application was required to be determined by the Planning Committee on 19 March 2019, due to the number of objections being received, and permission was granted, subject to the receipt of an acceptable Section 106 Legal Agreement within 3 months of the date of the resolution. Since that decision, Members were advised that the applicant had requested further time to prepare the unilateral undertaking.

The Committee considered this request and accordingly it was

Resolved that permission be granted with conditions and informatives as outlined in the agenda subject to the receipt of an acceptable Section

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106 Legal Agreement within 3 months of the date of resolution. Should a satisfactory Legal Agreement not be received within three months, authority be delegated to the Head of Planning Services to refuse the application for the following reason:

Reason for Refusal:

1. In the absence of a completed legal agreement, the proposed development fails to secure the necessary affordable housing, contrary to the requirements of Policy CS21 of the Elmbridge Core Strategy 2011 and the Developer Contributions SPD 2012.

14/19 Planning Application No. 2018/3184 - 110 Fairmile Lane, Cobham

One additional letter of representation had been received from the Cobham Conservation and Heritage Trust.

Members were advised that at the meeting of the Planning Committee on 19 March 2019, the Committee had resolved to grant permission subject to the receipt of a satisfactory Legal Agreement securing the reduced financial contribution towards the affordable housing, the viability late review mechanism and a financial contribution towards SAMM, within 3 months of the Committee's resolution. Should a completed Legal Agreement not be submitted within 3 months (by 19 June 2019), then authority was delegated to the Head of Planning Services to refuse planning permission for the following reason:

1. The proposal would, by reason of the lack of a Unilateral Undertaking in relation to a financial contribution for affordable housing and SAMM, be contrary to the requirements of Policies CS13 and CS21 of the Core Strategy 2011 and the Developer Contributions Supplementary Planning Document 2012.

Members were advised that in May 2019, the Cobham Conservation and Heritage Trust had made the Council aware that in their opinion the Authority had made some procedural errors in the processing of the application. Following a review of these matters, the Council had taken a number of steps as set out in the report, to ensure the correct determination of the application:

To ensure transparency of the determination process and to advise public of these changes, a further consultation had taken place and the application had been brought back to the Planning Committee for Members to have the benefit of all material considerations before the final decision was made.

The Committee considered the report and steps that had been taken and accordingly it was

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Resolved that permission be granted subject to the receipt of a satisfactory Legal Agreement within one month of the Committee meeting securing the reduced financial contribution towards the affordable housing, the viability late review mechanism and a financial contribution towards SAMM. Should a completed Legal Agreement not be submitted within one month, then permission be refused for the following reasons:

Reasons for Refusal:

1. In the absence of a completed legal agreement, the proposed development fails to secure the necessary contribution towards the affordable housing contrary to the requirements of Policy CS21 of the Elmbridge Core Strategy 2011 and the Developer Contributions SPD 2012;
2. Due to the lack of a legal agreement to secure a financial contribution towards the Strategic Access Management and Monitoring (SAMM), the Local Planning Authority is unable to satisfy itself that the proposal would not result in any adverse impact on the integrity of the Thames Basin Heaths Special Protection Area. As such, the proposal is contrary to the Policy CS13 of the Elmbridge Core Strategy 2011, the revised NPPF 2019 and the Developer Contributions SPD 2012.

15/19 Revisions to the Scheme of Delegation

(Link to Council Priorities: Character and Environment P2)

Members were reminded that on 11 June 2019 the Planning Committee had deferred consideration of the revised Scheme of Delegation and Public Speaking Procedure to ensure all Members were given the opportunity to comment on the proposals. It was agreed that information would be issued to all Members of the Council by 17 June 2019 with Members being given the opportunity to submit comments by 28 June 2019. It was also agreed that the proposal should include a revised proposed implementation date of 1 September 2019.

The Head of Planning Services had circulated the following documents for consultation with Members:

- the report considered by the Planning Committee Chairs and Vice Chairs on 23 April 2019;
- the report considered by the Planning Committee on 10 June 2019; and
- an updated presentation summarising the two papers listed above.

Eight representations had been received from Members on the proposed revisions to the Scheme of Delegation and a summary of comments received together with the officer response was provided to the Committee as Appendix A to the report.

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The Head of Planning Services explained the rationale for the proposed changes to delegations. The Council needed to achieve a stronger delivery focus and improve performance, and it was important to maintain the primary role of Members of the Planning Committee which was to take planning decisions based on the Development Plan unless material planning considerations indicated otherwise (including the National Planning Policy Framework).

During her introduction, the Head of Planning Services advised Members that a Petition opposing the proposals and signed by 372 people had been received, as well as 26 individual letters of objection. She also advised Members that Paragraph 19 of the Protocol within Appendix B was no longer required and therefore should be deleted from the report.

In respect of the submission of the Petition, the Law Practice Manager provided clarification that it was in order for the Petition to be considered by the Planning Committee. The Committee was advised that in accordance with Paragraph 4.6 of the Petitions Scheme within the Council's Constitution, Petitions would be considered at the meeting with responsibility for taking the relevant decision. However, whilst the representations of the Petitioners could be taken into account, it would not be in order to refer the proposals under consideration to the Cabinet (a step called for by the Petitioners if the proposals were accepted). Functions relating to Town and Country Planning and Development Control were prohibited from being the responsibility of the Executive by virtue of Regulation 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. That meant delegating to the Planning Committee the necessary powers to provide and maintain an effective system of development control. Discharging that responsibility was not just about determining planning applications but also settling arrangements for how they would be determined and by which Committee / Sub-committee / Officer. It would, therefore, not be in order for arrangements for determining planning applications to be referred to the Cabinet for decision.

Members considered and amended the Proposed Scheme of Delegation as set out within Appendix B of the report on a point by point basis as follows:

#### Decisions Referred to the Area Planning Sub-Committees

It was noted that point 1. of the delegations had been updated following the Member consultation to remove the need to provide a planning referral reason. Members supported this change.

It was agreed that Point number 2. of the Scheme of Delegations be amended to read:

**'2. Minor applications** (1-9 homes 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

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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).'

Some Members commented that the objection threshold of 15 was too high and the Committee took votes on proposed amendments to reduce this figure to 5 or 10. However, both amendments were not carried and the majority of Members agreed with the recommendation requiring 15 or more objections as they considered it to be an acceptable number given the relative ease with which representations could often now be communicated, e.g. by way of electronic mail.

Arising from consideration of point number 2, it was agreed that the Head of Planning Services be requested to provide a report to the next meeting on the Conservation Area Advisory Committee representations and whether representations from these advisory committees should be given a greater weight than being treated the same as an objection from one household.

Members considered that the number of objections should be consistent and therefore agreed that point 3. of the Scheme of Delegations be amended to read:

'3. Applications for Permission in Principle which are recommended for approval by Officers and there are objections from **15** or more households.'

Points 4 and 5 were agreed unamended.

#### Decisions Referred to the Planning Committee

A Member proposed an amendment that major applications should continue to be submitted to the Area Planning Sub-Committees in the first instance, however the amendment was not supported and a majority of Members were in support of the proposed revised delegations in this regard.

Points 6. and 7. were agreed unamended.

Members agreed that point 8. be amended so that the number of objections were consistent, and therefore the delegation should read:

'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).'

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[Reference to the weight to be given to any representations from the Conservation Area Advisory Committees would be the subject of a further report, as detailed above.]

Point 9. was agreed unamended.

Protocol for operating the system set out in the Scheme of Officer Delegations

Points 10.-18. were agreed unamended. It was noted that point 19. had been removed by officers from the report. Point 20. was also agreed, subject to it now being renumbered 19.

As a result of the above changes, the Committee also considered a proposed updated Public Speaking Procedure. It was proposed that the public speaking procedure be extended to the Planning Committee and that therefore any application on a Sub-Committee or Planning Committee agenda would be eligible for public speaking. The Committee agreed the proposed Public Speaking Procedure, as set out within Appendix C of the report.

The Committee also agreed that the updated Scheme of Delegations should commence with effect from 1 September 2019 following a vote on a motion to implement the updated Scheme from May 2020 which was not carried.

Discussion was held with regard to whether the Planning Committee could be increased in size. However a number of Members considered that with a minimum size of 16 seats, subject to proportionality, and with the effective use of the substitution arrangements, as well as Political Groups appointing their Members from different Wards, appropriate representation from across Wards could be achieved. Therefore any potential recommendation to increase in the Committee's size was not supported by Members. A Member also commented that consideration would need to be given to scheduling more Planning Committee meetings. It was noted that this would be considered as required.

Mindful of the comprehensive revisions that had been made to the Scheme of Delegations, it was agreed that Officers report back to the Planning Committee at the end of 2020 with an analysis of the previous 15 months of operation of the new arrangements.

Resolved that

- (a) the revised Scheme of Delegation, as set out in Appendix B to the report, subject to the amendments detailed above, be agreed;
- (b) the revised Public Speaking Procedure as set out in Appendix C to the report be agreed;
- (c) the revised Scheme of Delegation and the revised Public Speaking Procedure be implemented from 1 September 2019;



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- (d) the Head of Planning Services report back to the Committee's next meeting on an analysis of whether representations from the Conservation Area Advisory Committees should be afforded a greater weight; and
- (e) the Head of Planning Services report back to the Planning Committee at the end of 2020 with analysis of the previous 15 months of operation of the new arrangements to enable any refinements to the arrangements to become effective in the subsequent new Municipal Year.

16/19 Planning Compliance Update

(Link to Council Priorities: Character and Environment P2)

The Committee considered a report that provided an overview of the performance and work flow of the Planning Compliance Team.

In respect of the current caseload of compliance investigations, Members noted that as at 5 July 2019, there were 161 cases.

Resolved that the performance and work flow of the Planning Compliance Team be noted.

17/19 Minutes of the Local Plan Working Group Meetings held on 20 June and 11 July 2019

The Committee received the reports of meetings of the Local Plan Working Group held on 20 June and 11 July 2019.

Resolved that the reports of meetings of the Local Plan Working Group held on 20 June and 11 July 2019 be received and noted.

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The meeting commenced at 7.00 pm and concluded at 10.04 pm

Mrs. S.R. Kapadia  
Chairman

Democratic Services Officer

Ms. M. Bailey

Committee and Member Services Manager

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Other Officers in attendance

R. Lee	- Strategic Director
Mrs. K. Tagliarini	- Head of Planning Services
Ms. A. Krofah	- Law Practice Manager
P. Brooks	- South Area Team Leader
Mrs. A. Mantio	- Special Projects Officer
Mrs. J. Margetts	- North Area Team Leader