EXECUTIVE SUMMARY:

The purpose of this report is to review the current status of Claygate Parish Council’s role as a statutory consultee and the exception to delegated powers that means that all applications to which CPC object are automatically de-delegated and reported directly to East Area Sub-Committee. The report examines the legal status of the Parish in planning terms, provides comparison with other Surrey authorities and details the numbers of applications that have been de-regulated following Parish objections.

RECOMMENDATION:

THAT THE PLANNING COMMITTEE:

1. CONSIDERS WHETHER IT WISHES TO CHANGE THE PARISH EXCEPTION TO THE SCHEME OF DELEGATION IN RELATION TO DEVELOPMENT MANAGEMENT DECISIONS

REPORT:

1. Background

1.1 The purpose of this report is to review the current status of Claygate Parish Council’s (CPC) role as a statutory consultee and the exception to delegated powers which means that all applications to which CPC object are referred to East Area Sub-Committee.

1.2 At a recent Planning Chairs and Vice Chairs meeting the number of times that items are referred to the Sub-Committee by CPC was questioned and the meeting noted that the powers of delegation with regard to CPC objections had not been reviewed for several years. Therefore, Officers were asked to bring forward a report detailing the current arrangements and their implications.

2. Statutory Consultee

2.1 The CPC are deemed to be a statutory consultee under paragraph 8 of Schedule 1 to the TCPA 1990. This Council is therefore obliged to consult them on all applications in the CPC area and to consider any representations. This can only change if CPC notify us that they no longer wish to be notified.
3. **CPC Representations**

3.1 The mechanics of how a representation from the CPC is then dealt with is a matter for the Planning Committee. Under the Council’s “Scheme of Officer Delegations” all development management decisions are delegated to the Strategic Director except in the following circumstances where they are referred to the Area Planning Sub-Committees:

A. A Member has asked for an application to be promoted
B. All applications which are recommended for approval by Officers but there is an unresolved planning objection from 5 or more households
C. All applications submitted by or on behalf of Members or Officers of the Council
D. A Ward Member has asked for enforcement action to be promoted
E. All applications which are recommended for approval by Officers but there is an unresolved planning objection from Claygate Parish Council.

3.2 In order to review the implications of the exception E (above), a table has been produced which details those applications over the last 6 months which were referred to the East Area Sub Committee and their reasons:

**Table 1 – Applications Decided by East Area Planning Sub-Committee**

<table>
<thead>
<tr>
<th>Date</th>
<th>22 Apr</th>
<th>12 May</th>
<th>9 June</th>
<th>30 June</th>
<th>21 July</th>
<th>11 Aug</th>
<th>1 Sept</th>
<th>22 Sept</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Ditton</td>
<td>B</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>B, B</td>
<td>4</td>
</tr>
<tr>
<td>Thames Ditton</td>
<td>B, B, B</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Weston Green</td>
<td>A</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Hinchley Wood</td>
<td>A</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Esher</td>
<td>A</td>
<td>B, A</td>
<td>B, B</td>
<td></td>
<td>A, A</td>
<td>A</td>
<td></td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>Oxshott and Stoke D’Abernon</td>
<td>B, B</td>
<td>B</td>
<td>B</td>
<td></td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>Claygate</td>
<td>B, B,</td>
<td></td>
<td></td>
<td></td>
<td>B, A</td>
<td>B, B</td>
<td></td>
<td></td>
<td>6</td>
</tr>
</tbody>
</table>

3.3 In the table all those marked with an E (8) are those where without the CPC objection they would have been dealt with under delegated powers. Of these, 5 had no other objections whatsoever, 2 had only one other objection and one had 3 other objections. Without these applications the number of applications promoted in Claygate (6) would have been largely in line with the other villages.

3.4 Of those that were promoted by the CPC
- One was withdrawn after it was put on the agenda for the Sub-Committee
- One was refused
- The rest (6) were permitted in line with the officer recommendation.

3.5 The issues that this raises are:
- Applicants have to wait longer for a decision.
- They will almost all be over the 8 weeks performance target due to the need to take them to Committee.
3.6 With or without this exception it is still possible for Claygate Borough Council Members to promote items raised by the CPC if they wish.

4. **Parish Councils in Surrey**

4.1 The other Surrey Borough and District Councils were consulted to ask whether those with Parish Councils had a similar automatic promotion. Of those who replied:

- Reigate and Banstead, Waverley, Surrey Heath and Tandridge all have Parish Councils but an objection from their parishes does not trigger a referral
- Mole Valley has a specific rule and that is that minor and major applications with a parish council objection go to committee but not householders.

4.2 The only other Council to have parishes is Guildford and they have not yet replied

**Financial Implications:**
If the exception is not continued there will be a small saving in the resource time allocated to writing reports and forming agendas

**Environmental/Sustainability Implications:**
There are no environmental/sustainability issues arising from this report

**Equality Implications:**
There are no equality implications arising from this report.

**Risk Implications:**
There are no risk implications arising from this report

**Community Safety Implications:**
There are no community safety implications arising from this report.

**Principal Consultees:**
None.

**Background Papers:**
None.

**Enclosures/Appendices:**
Appendix A – Consultation response from Claygate Parish Council

**Contact Details:**
Ray Lee, Strategic Director - 01372 474700
rlee@elmbridge.gov.uk
Dear Mr Lee,

Re: Claygate Parish Council - Planning Representations

Thank you for your letter of 23rd October 2014 and the copy of the report which is to be presented to the Elmbridge Borough Council (EBC) Planning Committee on 18th November 2014. We appreciate being consulted. Please find below the views of Claygate Parish Council (CPC) as requested.

1. Overview

1.1 Claygate Parish Council (CPC) is surprised and extremely concerned that the EBC Planning Committee is to consider whether it wishes to change the CPC exception to the scheme of delegation in relation to Development Management decisions. We do however understand and respect that the mechanism of representation is in the hands of the EBC Planning Committee.

1.2 CPC does not believe that there are compelling reasons to change the historic partnership relationship between EBC and CPC on how to handle planning applications. The current arrangements of CPC’s role as a statutory consultee and the exception to delegated powers have been in place since the creation of CPC in 2000. We believe this has worked and continues to work effectively for EBC and CPC.

1.3 As the Coalition Government encourages more decision making to be delegated to local communities we find it difficult to comprehend that EBC would consider changing a longstanding arrangement that would remove existing delegated powers from our community.

2. CPC Planning Committee and its Remit

2.1 The CPC Planning Committee meets every 3 weeks to ensure that we meet the EBC East Area Planning Sub-Committee meeting cycle requirements so that quick decisions can be made. The 2 Claygate Borough Councillors who sit on the EBC East Area Planning Sub - Committee are both CPC Councillors. At least 1 other member of CPC attends the EBC East Area Planning Sub- Committee meetings to report back to CPC on the discussion/decisions. This report back is included in the CPC Planning Committee minutes, available for all to view.

2.2 CPC Planning Committee takes its role in Claygate planning applications very seriously and we are pleased that the report implies that the relatively few overall planning objections that CPC makes are based on legitimate planning guidelines. (The remit of the CPC Planning Committee is attached for information. Remits are revised at minimum once per year and more often if substantive planning guidelines change).

3. Claygate Planning Applications 2014 Year to Date

3.1 CPC Planning Committee has reviewed around 200 applications YTD, (16/1/14 to 16/10/14) from the weekly lists, at the 14 CPC Planning Committee meetings that have taken place so far this year.

3.2 A significant majority (over 60%) were No Comment. (Per planning guidelines we do not comment on Lawful Development Certificates – unless there is an obvious oversight in relation to planning rules nor Planning Notifications (PDPN). These however form only a very small amount of our no comment on planning applications)

3.3 Around 25% were No Objections with comment. CPC comments requested planning officers to consider primarily the 45 degree rule and the impact on trees in their decision making.

3.4 The remainder were Objections and these primarily fall into a small number of areas, namely: Breach of the 1m rule, lack of amenity space (CPC adheres to the EBC Home Extensions guidelines in the Design and Character Supplementary Planning Document, April 2012, on recommended garden lengths), out of character development in Conservation Areas, prior refusals resubmitted with nominal changes to the original application, proposed development in the Green Belt and fence heights.

APPENDIX A
Re: Claygate Parish Council - Planning Representations (cont’d)

4. CPC Comments on the Report

4.1 Report item Background: 1.2

This states that the powers of delegation with regard to CPC objections has not been reviewed for several years. Attached is the EBC Directorate of Planning and Environmental Services Protocol for Consulting CPC on Planning Applications and other Town Planning matters. The last revision was quite recent - 2 years ago and Applications 4 reaffirms the status quo position.

4.2 CPC have additional concerns about some of the conclusions in the report, especially those derived from 3.2 including Table 1, 3.3, 3.4 and 3.5. These were discussed at our EBC/CPC liaison meeting on 5th November 2014. We do not wish EBC to spend limited resources and staff time to assess the additional data CPC feels might provide a more relevant perspective (other than total planning applications submitted, if feasible), but we do feel it right to note the additional information that we requested and the rationale.

4.3 Report item 3.2 Table 1 Data: Timeframe (22 Apr. – 22 Sept. 2014)
CPC does not think that a 6 month timeframe necessarily provides a broad enough perspective. We may be wrong but we would have liked to see at minimum a 12 month view.

4.4 Report item 3.2 Table 1 Data and 3.3: Absolute Number of Planning Applications Received
CPC does not believe that the comparison of absolute applications promoted to EBC East Area Planning Sub-Committee by CPC versus the other wards is the most valid comparison. Ward population, number of properties, land available for new development, amount of Green Belt etc. vary from ward to ward. We believe a more relevant comparison would have been planning applications raised to EBC East Area Planning Sub-Committee as a % of total planning applications submitted. As we noted in 3.1 of this response the CPC Planning Committee has reviewed around 200 applications YTD – we do not know how many planning applications have been received for the other areas during this timeframe.

4.5 Report item 3.2 Table 1 Data: EBC East Area Planning Sub-Committee Decisions
As pointed out in 3.5 of the agenda the decisions for the 8 applications promoted by CPC to the East Area are noted. However, we do not know how this compares to the outcomes of the other applications noted as A or B for either Claygate or the other areas. If there is a common thread to the applications that CPC are objecting to that are then being permitted at the EBC East Area Planning Sub-Committee we would welcome the opportunity to discuss this situation with relevant Council Officers and Borough Councillors.

4.6. Report item 3.6 Promotion by Claygate Borough Councillors
All 3 Claygate Borough Councillors are also Claygate Parish Councillors and 1 of these sits on both the CPC Planning Committee and EBC East Area Planning Sub-Committee. It is therefore highly likely that, even without the current CPC exception, the vast majority if not all of the objections raised by the CPC Planning Committee would be promoted by Claygate Borough Councillors to the EBC East Area Planning Sub-Committee.

4.7 Report item 4 Parish Councils in Surrey
We note the position of other Parish Councils in Surrey. There is no doubt that planning application relationships between Parish Councils and Borough/District/Metropolitan Councils, across the country, are likely to be different for a variety of reasons. The focus of CPC is on our relationship with EBC and we would reiterate the current historic situation which we believe has worked and continues to work effectively in the interests of local residents, local democracy and local accountability.

5. Summary
As we have stated in 1.2 of this response, CPC does not believe that there are any compelling reasons for the EBC Planning Committee to change the CPC exception to the existing scheme of delegation in relation to Development Management decisions.

Yours sincerely,

Mark Sugden
Chairman, Claygate Parish Council
A. Responsibilities:

1. Commenting on relevant planning guidelines and legislation.
2. Obtaining professional support on planning matters when deemed necessary.
3. Commenting on planning applications
4. Commenting on applications under the Licensing Act 2003
5. Commenting on applications under the Gaming Act 2005

a. Relationship with the Planning Authority

i. The Parish Council has no power either to grant or to refuse an application for planning permission: these powers reside with Elmbridge Borough Council.

ii. The Parish Council does have the right to have its views considered by the Borough Council.

In the event that the Parish Council objects to the application, Elmbridge Borough Council will send the application to the East Area Planning Committee for consideration, unless the Planning Officer refuses the application, when the Officer will resolve the application.

b. Policies

i. **Green Belt and open spaces** - The Parish Council will object to any reduction in the designated Green Belt and to any proposed development that detracts from its amenity value. It will ensure that existing and potential open spaces and greens within the village are protected.

ii. **Trees** – The Parish Council attaches importance to the preservation of trees of significant amenity value, both on private land and on the highway. It will press for the granting of Tree Preservation Orders in appropriate circumstances. It will consider the advice of its Tree Wardens on any planning application affecting trees.

iii. **New Housing** - The Parish Council recognises the pressure for housing development. However it expects the Borough to exercise effective control over the type and density of such development, and to implement design guide standards in order to avoid incongruous housing development.

   In particular:

   * There will be a presumption against the demolition of character houses throughout the village and not only in the conservation areas.
   * New development should be in harmony with its immediate environment in terms of street scene, scale, type, number of storeys, roof heights, architecture and garden size.
   * The size of rear gardens must adhere to the Elmbridge design guide standard.
   * In considering applications for residential development, the Parish Council will expect the Borough to be satisfied that the proposed development, on its own or in combination with others, would not place unacceptable pressure on local infrastructure and services such as schools, medical service and highways. Where development occurs, the Borough Council must ensure that appropriate funding is raised through CIL or otherwise to augment existing services and are committed to release such funding as raised in the Claygate area twice yearly directly to Claygate Parish Council.

iv. **Conservation Areas** - The Parish Council will look critically at all proposed development and change of use in the conservation areas and liaise with the Claygate Conservation Area Advisory Committee to promote the maintenance and enhancement of the conservation areas. The sympathetic use of materials and design will be required.

v. **Small Works** - Applications for small works on domestic properties, outside the conservation areas, will not normally be opposed, but they should ensure that there is no adverse impact on the street scene or the issues of concern described in this remit; the impact on the amenity of neighbours will be left to the Planning Authority, whose attention may be drawn to the relevant rules.

vi. **Backland development** - The Parish Council will look critically at any proposals for backland development. It will seek to ensure that such proposals are integrated with existing development and do not detract from the appearance and character of the surrounding area.

vii. **Boundaries to properties** – The Parish Council when considering applications will pay due attention to proposals for hedges, walls, fencing and gates. It will seek to ensure that these are in keeping with the character of the area. The Council is in principle opposed to gated developments.
viii. **Traffic and transport** – The Parish Council in considering applications will assess the likely effect on the volume and nature of traffic in the vicinity, the implications for parking and the access to public transport.

ix. **Commercial** - Applications will be viewed with regard to their benefit to the community, quality of design and visual impact on the area.

x. **Notices and Representations** - The Parish Council will advise residents of the existence of applications to Elmbridge Borough Council and will consider any representations made.

xi. **Contacts with Developers and Applicants** – Except in respect of applications for tree works, Parish Councillors will not normally speak to people regarding planning permission. Should such contact arise unavoidably, discussion shall be limited to procedural matters and avoid considering the merit of the application. In such a case a note shall be made of the contact and reported to the next Planning Committee meeting.

In the event that an interested party wishes to talk to a Parish Councillor prior to an application being heard at a meeting, this must be done by appointment with the Clerk. It should be immediately prior to a planning meeting, with a minimum of two Parish Councillors and the Parish Clerk present and a record taken of the discussion and included in the minutes.

Records of such meetings with interested parties should be agreed with the applicant if at all possible.

Councillors may attend publically advertised open meetings about applications and proposed applications, but should not enter into any discussion unless arranged as above.

c. **Licensing Act 2003**

The Parish Council will consider applications relating to the retail sale of alcohol, the supply of alcohol in clubs, the provision of regulated entertainment and late night refreshment and, if appropriate, make representation to Elmbridge Borough Council.

d. **Gaming Act 2005**

The Parish Council will consider all applications that could affect Claygate relating to the operation of premises for the purposes of gambling and, if appropriate, make representation to Elmbridge Borough Council. In line with Elmbridge Borough Council policy decision. The Parish Council will oppose any application for casinos.

**B. Organisation**

The quorum of this Committee is half of the membership of the Committee in accordance with Standing Orders. In order to prevent the attendance of Councillors falling below the quorate number, it may be necessary to call upon the services of a councillor not on the Planning Committee to attend and vote at a meeting.

This may be achieved in the following ways:

i. The attendance of the Chairman or Vice-Chairman who are ex-officio members.

ii. The attendance of a substitute councillor who will be invited by the Chairman of the Planning Committee to attend the meeting in question, and for that meeting and that meeting only, will have voting rights.
DIRECTORATE OF PLANNING & ENVIRONMENTAL SERVICES

TOWN PLANNING DIVISION

PROTOCOL FOR CONSULTING CLAYGATE PARISH COUNCIL ON PLANNING APPLICATIONS AND OTHER TOWN PLANNING MATTERS

APPLICATIONS

1. Applicants submitting planning applications (note 1) that fall within the Parish Council area will be requested to provide an additional (5th) copy of plans and application forms.

2. Upon receipt of such an application within the Parish Council area, the Chair of the Planning Committee will be informed by letter enclosing a set of the plans and application forms. The letter will request that the Parish Council's views are submitted to the Head of Town Planning within 21 days of the date of the letter.

3. A copy of the weekly list will also be forwarded to the Clerk of the Parish Council.

4. No applications within the Parish Council area will be determined until the expiry of the 21 day period. Where an objection is received from the Parish Council, the application will be presented to the East Area Sub-Committee and not determined under the Council's Officer Delegation Scheme. However, consideration of an application cannot be delayed in the event that the Parish Council views are not received at the expiry of the 21 day period.

5. The views of the Parish Council will be included in the consultations section of the officer report, summarised as may be necessary.

6. When a decision has been made in respect of applications within the Parish Council area, the Parish Council will be informed by letter.

CONSULTATIONS

1. The Parish Council will be included in the list of consultees on issues such as the Elmbridge Core Strategy, Elmbridge Local Plan Design and Character Supplementary Planning Document, its Companion Guide for Claygate, The Character of Elmbridge (an overview), Home Extensions, and the Managing Development in Claygate, along with any further developmental project that is associated with planning, the design and development of Claygate.

2. The Parish Council will be consulted at an early stage in the preparation of enhancement schemes affecting its area.
GENERAL

1. The Parish Council will be provided with copies of the East Area Planning Sub-Committee agenda as soon as these are publicly available.

2. The Parish Council will be provided with copies of the Elmbridge Core Strategy, Elmbridge Local Plan Design and Character Supplementary Planning Document, its Companion Guide for Claygate, The Character of Elmbridge (an overview), Home extensions and the Managing Development in Claygate, along with any further developmental documentation that is associated with planning, the design and development of Claygate and other key planning documents relating to the Parish Council area for members of the Planning Committee.

4. Training sessions on planning procedures, or other topics as agreed, will be provided for members of the Parish Council’s Planning Committee.

* * * * * * *

NOTES:

1. For the purposes of this Protocol “planning applications” shall include also applications to carry out works to trees that are the subject of the Tree Preservation Order, notifications of works to trees located within a Conservation Area, applications for Listed Building Consent, applications for Conservation Area Consent, applications for Advertisement Consent and applications for Approval of Reserved Matters following the grant of Outline Permission.

August 2000
Amended July 2012