Executive Summary:

To consider whether to change the Scheme of Delegation with regards to comments from Conservation Area Advisory Committees.

Recommended:

Officer’s propose the following to improve the engagement between the council and members of the CAAC:

(a) Improve contact between the Council’s Conservation Team, Development Management Team and the CAACs
(b) Offer guidance/training to CAAC members in relation to identifying harm to Conservation Areas and conflict with development plan policies within representations
(c) CAAC objections to be reviewed internally with Conservation Team during application process and feedback to be given to CAAC where comments do not identify harm or conflict with policy
(d) Clearer consideration of CAAC comments within officer reports
(e) Objection from CAAC to be clearly referred to within representations
(f) Establish Planning Users Group for bi-annual meetings for non-statutory consultees and interest groups, such as CAACs to meet with senior officers from Planning Service
(g) During pre-application discussions, encourage applicants/developers on major/significant applications within Conservation Areas to engage with CAACs before making a planning application

However no changes are proposed to the scheme of delegation relating to Conservation Area Advisory Committees.

Report:

1. Update

Changes to the Scheme of Delegation for Planning Services were agreed at the Planning Committee meeting on 23 July 2019. These came into effect on 1 September 2019.

At the meeting on 23 July 2019 the Committee requested further research with regard
to the involvement of Conservation Area Advisory Committees (CAAC) in relation to the scheme of delegation.

Officers were asked to investigate the merits and implications for changes to the scheme of delegation relating to comments from CAACs in relation to two areas of discussion:

- Whether an objection from CAAC should count as 10 objections
- Whether an objection from a CAAC should trigger referral to the relevant Sub-Committee or Planning Committee.

A review of all the Surrey and London boroughs and districts has been carried out to investigate how comments from Conservation Advisory Committees or similar are treated elsewhere (see Appendix A).

2. Significance of Conservation Areas

Historic England provides the following description of Conservation Areas: Local planning authorities are obliged to designate as conservation areas any parts of their own area that are of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance.

Local planning authorities also have a duty to review past designations from time to time to determine if any further parts of their area should be conservation areas.

Conservation area designation introduces a general control over the demolition of unlisted buildings and provides a basis for planning policies whose objective is to conserve all aspects of character or appearance, including landscape and public spaces, that define an area’s special interest.

It is believed that there may be around 10,000 designated Conservation Areas in England.

3. Background

Elmbridge has 26 Conservation Areas covering more than 2000 properties. There are 10 Conservation Area Advisory Committees (CAACs) covering 19 of its 26 Conservation Areas (see Table 1 and 2).

Policy DM12 (Heritage) of the Development Management Plan 2015 sets out the Council’s policy for consideration of applications relating to Conservation Areas. Development within or affecting the setting of a Conservation Area should preserve or enhance the character and appearance of the area.

The CAACs comprise of unpaid volunteers from the community who meet on a regular basis to provide the Council with feedback relating to planning applications within the relevant Conservation Areas.

The CAACs are intended to reflect a cross-section of local opinion. Nominations to serve on the Committee are sought from such bodies as the national amenity societies,
the Royal Institute of British Architects, the Royal Institution of Chartered Surveyors, the Royal Town Planning Institute, the Association of Building Engineers, local Residents Association, local archaeological, historical and civic amenity societies, residents living in the Conservation Area, and, if appropriate, local Chamber of Trade or Commerce. Council Members may either be appointed to serve on Committee or attend meetings as observers.

There is no statutory duty for the Council to facilitate CAACs, nor is there national guidance on how they should be organised, operated or on the composition of their membership. Historic England refers to an example of a CAAC in its publication “Valuing Place: Good Practice in Conservation Areas” (2011).

Although Conservation Area Advisory Committees are set up by the Council, they operate independently. There is no officer involvement with the CAAC meetings. The prime purpose of each Committee is to advise the Council. They may, however, act independently to formulate policies, make proposals, and carry out enhancement measures for the general care and maintenance of the area.

The National Planning Policy Framework states that decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing. The Council is required to carry out consultation in line with Government guidance and the Council’s Statement of Community Involvement. It is important that there is effective consultation with representatives of the local community and opportunities to improve public engagement are to be supported. However, a balance needs to be found in meeting the NPPF requirement to determine applications in line with national targets and improving public engagement.

A recent survey¹ found that just 2% of the public trust developers and only 7% have faith in local authorities when it comes to planning for large scale developments. This report was carried out by a large property developer. The Building Better, Building Beautiful Commission stated in their interim report that the problem with the current planning process is that it “tends to lock people into confrontational views without enabling a constructive dialogue about what’s best for the future” and that the “overwhelming consensus of what we heard is that citizen involvement comes too late in the planning process to effect anything more than a small adjustment.”

Therefore, it is in the Council’s interest to help restore trust in the planning system and ensure communities are given a meaningful voice. Unlike some Councils, Elmbridge publish all comments received in relation to a planning application and therefore comments from Conservation Area Advisory Committees are available for public inspection.

¹ https://grosvenor.com/our-businesses/grosvenor-britain-ireland/rebuilding-trust
Table 1: Conservation Area Advisory Committees by Area Sub Committee

<table>
<thead>
<tr>
<th>EAST AREA</th>
<th>NORTH AREA</th>
<th>SOUTH AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claygate (Village) and Claygate (Foley Estate)</td>
<td>East Molesey (Kent Town), East Molesey (Bridge Road) and East Molesey (Old Village)</td>
<td>Cobham and Cobham (The Tilt)</td>
</tr>
<tr>
<td>Esher and Lakeside Drive</td>
<td>Walton (Riverside) and Walton (Church St/Bridge St)</td>
<td>Cobham (Downside) and Cobham (Plough Corner)</td>
</tr>
<tr>
<td>Thames Ditton and Giggs Hill Green</td>
<td>Weybridge and Weybridge (Monument Green)</td>
<td></td>
</tr>
<tr>
<td>West End</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weston Green</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 2: Conservation Areas not covered by CAACs:

<table>
<thead>
<tr>
<th>EAST AREA</th>
<th>NORTH AREA</th>
<th>SOUTH AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Ditton (Church &amp; Manor House)</td>
<td>Hersham Village</td>
<td>Brooklands</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Stoke D’Abernon</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Templemere, Weybridge</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Whiteley Village</td>
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<tr>
<td></td>
<td></td>
<td>Wey Navigation</td>
</tr>
</tbody>
</table>

4. Whether an objection from a Conservation Area Advisory Committee should count as 10 objections

The existing scheme of delegation as set out in Part 3 of the Council’s constitution states that 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.

Currently the CAACs are consulted on planning applications within the relevant Conservation Areas and their comments are listed under the consultees section of the officer report. Therefore, they are given more prominence than other representations. An objection from a CAAC does not change the level of delegation for a decision.

Of the 33 objections received from CAACs in 2018-19, if their objection had counted as 10 objections, this would have resulted in 3 additional applications being considered by Committee (see Appendix B).

Making a CAAC objection equivalent to 10 objections

From a review of all the Surrey and London boroughs, there are no examples where an objection from a CAAC is counted as more than one objection. It is difficult to justify
treated a CAAC objection differently from objections from any other organisation or consultative body; 10 is an arbitrary number and would not necessarily be proportional to the objection or the development proposed.

5. CAAC objection to trigger referral to Committee

From the review of Surrey and London boroughs, there are no other Surrey boroughs with CAACs and therefore there is no precedent in Surrey. However, CAACs are more common in London boroughs. 13 of the 32 London Boroughs have CAACs. An objection from the CAAC or a Conservation based group only triggers a referral to Committee in 4 of those boroughs: Kingston, Enfield, Haringey and Camden.

However, there are important differences in each of the schemes which would not be replicated if Elmbridge enabled CAAC’s to trigger referral to a planning committee. For example, in Kingston specific planning reasons have to accompany the referral; Elmbridge does not require councillors to provide planning reasons when making a request for an application to be referred to a committee.

Representations have been received from the East Molesey CAAC and Thames Ditton CAAC stating that they support the suggestion that a CAAC objection should trigger referral to Committee.

Kingston

Kingston has three CAACs (Kingston Town, Surbiton and Maldens & Coombe) which cover 25 of the 26 Conservation Areas in the borough. Each Committee meets once a month. Under their Scheme of Delegation, applications where the recommendation is to approve contrary to the views of the CAAC where the application falls within a Conservation Area are determined by the relevant Neighbourhood Committee. The CAAC is also given the opportunity to address the Committee meeting. However, the objection does not count as more than one objection.

In Kingston, the website sets out clear procedures for representations from the CAACs. However, as part of the process they are required to identify the reasons why the proposal is harmful to the character and appearance of the Conservation Area and why it is not in accordance with the Council’s development plan or planning guidance. There is also a quorum of at least one third of the CAAC members required for the committee to meet.

The CAACs within Kingston cover the majority of Conservation Areas whereas in Elmbridge there are 7 Conservation Areas which do not have committees.

Enfield

Applications for development in Conservation Areas and for Listed Building Consent to which the Conservation Advisory Group raise objection but are recommended for approval are referred to Enfield’s Planning Committee. The Conservation Advisory Group is formed of a number of Councillors and co-opted members from a wide variety of interest groups including Conservation Area Study Groups, Civic Trust and Residents Associations. Therefore, it is only one group for the whole borough and is
mainly led by the Council with elected Councillors taking a role.

Haringey

In Haringey, the scheme of delegation states that an application is referred where any local community body sets out the planning reasons for the matter to be referred to the Planning Sub Committee, before the expiry of the consultation period, and which the Director in consultation with the Chair of the Planning Sub Committee considers should be referred. Therefore, it is not an automatic referral.

Camden

In Camden, an objection from the CAAC triggers consideration by a Members Review Panel consisting of the Chairman, Vice Chairman and one other identified Member who decide whether to refer the application to Committee following consideration of the objection. Therefore, it is not an automatic referral.

Review of CAAC comments

A review of comments received from all the Elmbridge CAACs from April 2018 to March 2019 was carried out. 60 comments were received raising no objection. A total of 33 objections were received during the year which are summarised in Table 3. More detail on the applications where objections were raised is set out in Appendix B.

It is noted that 48% of the objections came from East Molesey CAAC and 4 of the 10 CAACs raised no objections during the year 2018-19.

Of the 33 objections from CAACs, 15 additional applications would have gone to Committee if an objection from a CAAC triggered referral to Committee contrary to an officer recommendation for approval.

Of the 8 applications refused where an objection was received from a CAAC (5 delegated and 3 by Committee), only 1 was refused on impact on the Conservation Area.
Table 3: Decision level of applications subject to objection from a CAAC

<table>
<thead>
<tr>
<th>CAAC</th>
<th>Objections</th>
<th>Granted Delegated</th>
<th>Granted Committee</th>
<th>Refused Delegated</th>
<th>Refused Committee</th>
<th>Withdrawn/Invalid</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claygate</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Esher and Lakeside Drive</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Thames Ditton and Giggs Hill Green</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>West End</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Weston Green</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>East Molesey</td>
<td>16</td>
<td>11</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>1</td>
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<tr>
<td>Walton</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Cobham and The Tilt</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0</td>
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<tr>
<td>Cobham Downside and Plough Corner</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Weybridge</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>33</strong></td>
<td><strong>15</strong></td>
<td><strong>4</strong></td>
<td><strong>5</strong></td>
<td><strong>3</strong></td>
<td><strong>5</strong></td>
<td><strong>1</strong></td>
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</table>

Of the 15 objections where permission was granted under delegated powers, none were classified as major applications. 10 related to householder or small scale commercial applications, 1 advertisement consent, 2 changes of use and 1 minor application.

One application was for a Lawful Development Certificate where the planning merits of the proposal cannot be taken into account as a material consideration. In most cases, officers came to the view, with internal advice from the Conservation Officer that there was no harm. There is a degree of judgement in considering applications. For example, the officer report for 42 High Street, Thames Ditton identified that there was less than substantial harm to the Conservation Area which was outweighed by the public benefit of improving access for all to the building.

It is also noted that within a number of objections from CAACs, comments are made which do not relate to harm to the character and appearance of the Conservation Area. Objections on flooding, loss of light, infilling and that a proposal is harmful because it is visible from properties within a Conservation Area would not be considered an objection which identifies material harm to the Conservation Area. Therefore, many of the objections from CAACs would not meet the criteria used in Kingston for an objection triggering a referral.

The impact of the proposed exception to the delegation arrangements is that relatively
minor applications would be reported to Committee on the basis of one objection to a proposal that is otherwise acceptable in policy and design terms. This has the clear potential to delay the processing of an application and to take up valuable Committee time on minor, non-strategic applications.

The only exception where an objection currently triggers a referral to Committee is Claygate Parish Council. The status of Claygate Parish Council representations on planning applications was reviewed in November 2014 by the Planning Committee and it was concluded that the trigger should remain. At the time it was found that there were differences across Surrey boroughs in the approach to Parish Council objections. Reigate and Banstead, Waverley, Surrey Heath and Tandridge all have Parish Councils but an objection from their parishes did not trigger a referral. In Mole Valley, an objection from a Parish Council to a minor or major application went to Committee, but not householders.

If Members decided it was appropriate to refer an application where a CAAC objects, the question would be raised why other statutory consultees do not have the same weight.

Also, there are many other community groups who may feel their comments are not being given sufficient weight. Haringey are the only Borough where a “community group” triggers a potential referral but it is subject to a lead officer and the Chairman of the Committee agreeing it is appropriate. Within Elmbridge there are a number of bodies who regularly comment on planning applications. This might include:

- Environment and nature groups
- Heritage groups
- Civic groups
- Chambers of Commerce
- Residents Associations
- Charity organisations
- Voluntary organisations

Recommendations:

Proposed changes within the Planning Service

Council liaison with CAACs

Currently there is very limited contact between the Council and the CAACs. However, Jon Kilner, the Council’s Senior Conservation Officer who has recently joined the Council, has contacted all the CAACs to offer to meet them to improve links with them as consultees.

From reviewing the comments from CAACs, there may be benefit from officers providing some additional guidance or training to CAAC members to encourage their representations to clearly identify the harm to the Conservation Area and to identify the specific conflict with development plan.

The Planning Service is committed to conserving Elmbridge’s vast and varied historic
environment and will continue to work positively with all the CAAC’s and to ensure the best outcome for the borough.

It is suggested that the following would improve the engagement between the council and members of the CAAC:

- Improve contact between the Council’s Conservation Team, Development Management Team and the CAACs
- Offer guidance/training to CAAC members in relation to identifying harm to Conservation Areas and conflict with development plan policies within representations
- CAAC objections to be reviewed internally with Conservation Team during application process and feedback to be given to CAAC where comments do not identify harm or conflict with policy
- Clearer consideration of CAAC comments within officer reports
- Objection from CAAC to be clearly referred to within representations
- Establish Planning Users Group for bi-annual meetings for non-statutory consultees and interest groups, such as CAACs to meet with senior officers from Planning Service
- During pre-application discussions, encourage applicants/developers on major/significant applications within Conservation Areas to engage with CAACs before making a planning application

CAACs were set up to give the community a meaningful voice; however this needs to be balanced with ensuring that the Council is able to deliver an effective Planning Service.

Officers do not recommend amending the scheme of delegation in relation to objections from Conservation Area Advisory Committees.

Elmbridge is fortunate to have 10 Conservation Area Advisory Committees and their contribution in reviewing applications in Conservation Areas and valuing their local areas is recognised and appreciated.

The revised scheme of delegation agreed on 23rd July 2019 by Planning Committee came into effect on 1st September and does not propose to change the way in which the Council deals with objections from Conservation Area Advisory Committees.

CAACs remain official consultees on planning applications within their areas. As such, objections from CAACs will continue to be set out in officer reports. There is no proposal to diminish the role of CAACs or evidence to support changing how their objections are dealt with.

The Planning Committee’s resolution to change the scheme of delegation requires a review of the changes to be reported back to the Committee at the end of 2020. Therefore, an assessment of decisions made in relation to CAAC comments can be reported as part of this review.

If Members are minded to change the scheme of delegation to refer items where an objection is received from a CAAC, the following criteria should be added to the
Scheme of Delegation as part of the amendment:

- Applications where the recommendations is to approve contrary to the views of the Conservation Area Advisory Committee where the application falls within a Conservation Area.
- The objection from the Conservation Area Advisory Committee must identify the reasons why the proposal is harmful to the character and appearance of the Conservation Area.
- The objection from the Conservation Area Advisory Committee must identify why the proposal is not in accordance with the Development Plan.
- The objection must be received within the consultation period.
- The Chairman of the Planning Committee or Area Sub would need to confirm the referral.

**Financial implications:**
None

**Environmental/Sustainability Implications:**
None

**Legal implications:**
The Council’s Constitution has delegated the responsibility for maintaining an effective system of development control to the Planning Committee (Article 8 of Part 1, Responsibility for Functions in Part 3 and Terms of Reference in Part 4). The Planning Committee accordingly maintains a Scheme of Delegation for the taking of development control decisions (set out in Part 3 and reproduced in the Appendix to this report. The Planning Committee enjoys the delegated power to review and amend the Scheme of Delegation. If changes are made, these will take immediate effect and be published on the Council’s website at the earliest opportunity.

**Equality Implications:**
None

**Risk Implications:**
None

**Community Safety Implications:**
None

**Principal Consultees:**
Head of Legal Services

**Background papers:**
None

**Enclosures/Appendices:**
Appendix A – CAACs in Surrey and London Boroughs and weight given to CAAC comments
Appendix B – Summary of objections from CAACs (April 2018-March 2019)

**Contact details:**
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