



Torrington Lodge Car Park Process and request to affirm decision

Contents

1. Background.....	2
2. Surplus Asset – options analysis undertaken.....	2
3. Analysis of Approach	3
4. Decision of the Cabinet.....	3
5. Progress of the DFA/lease	4
6. The role of the Council as landowner and as local planning authority.....	5
7. Information provided to the CPC from November 2022	6
8. Information provided by the Council to the public.....	7
9. Issues raised.....	7
10. Planning Issues raised.....	8
11. Process issues raised.....	9
12. Actions taken in response.....	10
13. Consideration of options	10
14. Officer conclusion	11
Appendix A – Extract of Cabinet Report	14
Appendix B – Content of CPC notification email.....	16
Appendix C – Minutes of 3 August 2023 meeting with Parish Council.....	17
Appendix D – Timeline of process	20

1. BACKGROUND

- 1.1 Following the Cabinet decision to proceed to enter into a Development Funding Agreement (DFA) with Kilo Properties Limited (Kilo) for the construction of an M&S food store and residential units on the Torrington Lodge Car Park, officers have been in negotiations with the parties to agree the DFA and the lease to Marks & Spencer Plc (M&S), those robust negotiations are nearing conclusion.
- 1.2 The public have been made aware of the development opportunity through news items on the Council's website and Kilo have also undertaken a public engagement event. Following a meeting between the Claygate Parish Council (CPC) and Council officers on the 23 June 2023 and the Kilo engagement event, the CPC decided to hold a public meeting on the 21 July 2023 to discuss the proposal.
- 1.3 On the 3 August 2023 CPC met with senior officers and councillors of the Council. The CPC raised a series of issues concerning the development proposal, including the process followed and the perception it was a "done deal, with no true transparency or consultation."
- 1.4 The CPC has made representations to the Council that the signing of the DFA should be halted until consultation with the community and an options appraisal has been undertaken. Cabinet has taken this request on board and time has been taken to fully consider the merits of the course of action it was following to bring this opportunity to Claygate and to utilise this asset to its best effect.
- 1.5 This report addresses the process that the Council has undertaken, the assessment of the opportunity against the Council's policies including the Vision 2030 and the emerging Local Plan and future engagement and provides advice to Cabinet on the next steps.

2. SURPLUS ASSET – OPTIONS ANALYSIS UNDERTAKEN

- 2.1 As part of the consideration of this development, it is important to demonstrate how the current proposal has been brought forward. It was back in 2014 that the car park was identified as a surplus asset. Residential capacity studies were undertaken in 2016. The capacity studies demonstrated a possibility of 15 houses or 16 flats. The financial appraisals of these capacity studies showed a small residual value, but interest rate and cost increases would impact that financial appraisal and the project was deemed to be too high risk to proceed with.
- 2.2 A further capacity review was undertaken in 2021 which showed that 16 houses or 20 flats could be placed on the site, financial appraisals of these schemes have not been produced as it was at this time that an initial approach was received from Kilo and M&S. The scheme presented provided a mixed-use scheme which on financial appraisal provides a much greater residual value for the Council, fulfils key deliverables under the Council's Vision 2030, and an ongoing substantial income stream which will contribute to reducing the budget gap between income and expenditure in line with the Council's financial strategy.

3. ANALYSIS OF APPROACH

- 3.1 Being a village centre (in planning terms referenced a district centre), a mixed-use development supports the Council's placemaking ambitions.
- 3.2 The Vision 2030 sets out how the Council will achieve a thriving borough and will provide vibrant towns and villages and support local economies. It states that for our evolving high streets, we will utilise our Local Plan, among other policies, to support vibrant and resilient high streets. Draft Local Plan (ECO3) states that mixed use developments which contribute to increasing footfall and vibrancy in town, district and local centres will be supported. This draft policy encourages local development opportunities for retail and other town centre uses in centres where they are able to maintain and enhance the overall health, vitality and offer of a centre.
- 3.3 The new Local Plan seeks to protect the green belt in the borough and promotes the development of brownfield sites. This is a very significant measure in the context of safeguarding Claygate's character as a village. Subject to approval by the Planning Inspectorate the Local Plan will protect green belt in Claygate, guard against over-development and prioritise the use of brownfield sites such as the Torrington Lodge Car Park.
- 3.4 The mixed nature of this development also provides much needed housing in a more viable development than residential alone. There is currently 2,400 on the Housing Register with 300+ of these in priority need. The Council has 100+ in temporary accommodation with 40 of these outside of the borough. There are less than 100 affordable homes being built annually.
- 3.5 As approach aligned with the strategic aims of the Council and a financial appraisal and legal analysis of the proposal was undertaken with all necessary due diligence that enabled the Cabinet to make a reasoned and informed decision to progress with the development funding.

4. DECISION OF THE CABINET

- 4.1 On the 16 November 2022 a full report was placed before Cabinet for decision and a recommendation to Council for the budget provision. The report contained information which was exempt from publication due to commercial sensitivities within the document.
- 4.2 At the time of publication, it was concluded that the report contained exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006 in particular, Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information). In all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information because, disclosure to the public would prejudice the financial position of the Council and that of M&S/Kilo by allowing others in the development market and retail market to know the financial position of the Council and other

parties. This would prejudice the developer in negotiations for the contractor for the build which in turn prejudices the Council by (i) distorting the market position under the DFA and (ii) prejudicing the opportunity for the Council to achieve good value for money and (iii) might dissuade organisations bidding for the Council's future tenders or entering into transactions with the Council if their commercial information was put into the public domain.

4.3 This exemption has been re-assessed at the time of writing this document and the reason for exemption remains. The full report as submitted to Council cannot be placed in the public domain, but an extract is included at **Appendix A** for transparency.

4.4 Following robust debate on the 16 November 2022 the Cabinet resolved to:

4.4.1 Enter into a Development Funding Agreement with Kilo for the construction of an M&S food store and residential units on the Torrington Lodge Car Park;

4.4.2 Pursuant to the DFA to enter into a lease with M&S for a term of 15 years;

4.4.3 Enter into any ancillary contracts and agreements to secure the redevelopment including the appointment of external legal advisors and a monitoring surveyor;

4.4.4 Enter into a Deed of Release of Covenants to remove a restriction on the title; and

4.4.5 Recommend to Council the budget for the DFA.

5. PROGRESS OF THE DFA/LEASE

5.1 Following the resolution of the Cabinet, officers have been working hard to ensure that a robust DFA and lease is negotiated and finalised. Officers appointed external legal advisors who have considerable experience in retail and residential developments to provide professional advice and assistance to complete the documents.

5.2 Under the structure of the arrangement the Council will enter the DFA with Kilo, Kilo & M&S enter into an agreement for lease and on completion of the development the Council will enter into a 15-year lease with M&S. The Council then have the residential units to use in accordance with their statutory duties, powers, and functions. Ownership of the site is retained by the Council.

5.3 The negotiations of the agreements have been progressing at the pace expected of a development of this importance and complexity. As at the 3 August 2023 there were just a handful of issues to iron out before the documents are ready for execution and completion by the parties. These are now close to being finalised. The Council has taken a robust stance in the negotiations to ensure that its long-term interests are protected in this development.

- 5.4 Under the DFA the Council's funding contribution is set, this level of funding has been verified by independent surveyors to ensure the development costs plan is accurate for the current economic climate. The Council has employed a monitoring surveyor to ensure that the expenditure over the life of the development is in accordance with that development cost plan. There is a considerable risk that if the DFA is delayed that the development costs will increase to an unacceptable level.
- 5.5 The DFA is conditional on Kilo obtaining planning permission for the development. This is very common conditionality within a development funding agreement. This means that Kilo is investing in this site up to the point of planning permission at their own risk, as landowner the Council is not influential over the development. Kilo has to undertake all the steps required for submitting and obtaining planning permission as any other developer would.

6. THE ROLE OF THE COUNCIL AS LANDOWNER AND AS LOCAL PLANNING AUTHORITY

- 6.1 It is important to be clear about the distinction between the Council's role as landowner and as Local Planning Authority and the governance that operates in this respect.
- 6.2 The Town and Country Planning General Regulations 1992 enables local planning authorities to determine their own development proposals on land in which they have an interest. As per the Planning Advisory Service (PAS) guidance "Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers." The new Member's Planning Code of Good Practice adopted by the Council in May this year has provisions to make it clear how important this is to the Council. It is clear within the DFA the separation of the differing roles the Council must take.
- 6.3 It is also important to be clear about what would constitute pre-determination and bias in relation to the Planning Committee and on the part of Councillors.
- 6.4 Section 25 of the Localism Act 2011 clarifies that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicates what view they might take in relation to any particular matter. Councillors are able to have a pre-disposition one way or another as long as they have not pre-determined the outcome. The case of R(Lewis) v Redcar & Cleveland Borough Council and Persimmon Homes Teesside Limited [2008] is the key case on this point, in particular it states "Councillors are elected to implement, amongst other things, planning policies. They can properly take part in the debates which lead to planning applications made by the Council itself". As with any planning application Councillors will have to individually consider their own position in terms of declarations of interest and pre-determination. The Member's Planning Code of Good Practice and the Probity in Planning (PAS guidance) will of course be considered at the relevant time.
- 6.5 The Cabinet resolution allowed for the Council to enter a Deed of Release of Covenant to remove a restriction on the title. This deed has been completed and

the relevant applications made to the Land Registry. As with any other development of the land, a full title investigation was undertaken, and all easements and restrictions are taken into consideration, and these will be addressed in due course. Officers do not consider that there are any restrictions on the title to the land which will prevent the development as proposed being completed.

- 6.6 Kilo were keen to bring forward public engagement events about the development and they wanted to ensure that this was at a time which did not clash with the summer holiday period to ensure optimum involvement. After consideration it was agreed that they could continue at their own cost and risks with a public event in Claygate on the 6th and the 8th of July 2023 without the signing of the DFA. This engagement event has brought to the attention of Kilo, M&S and the Council both negative and positive comments from those living and working in the village.

7. INFORMATION PROVIDED TO THE CPC FROM NOVEMBER 2022

- 7.1 On the 4 November 2022 out of courtesy and for transparency the CPC was advised of the report being submitted to the Cabinet on the 16 November 2022 for decision. The CPC was advised that this was for a mixed-use development proposal for a food store and a residential opportunity. The content of that emails is at **Appendix B**.
- 7.2 The principle of a mixed-use development was known to the CPC from this date. Due to the commercial sensitivities as explained at paragraph 4.2, full details of the scheme were not provided in that email as this would amount to putting exempt information into the public domain.
- 7.3 The Council and CPC have a Parish Charter dated 2012 which sets out the principles of how these two-tiers of local government will operate. This Parish Charter acknowledges the statutory constraints on the sharing of confidential information.
- 7.4 The potential development of this site was discussed by the CPC at both Council meetings and at the Highways, Transportation and Environment Committee on the following dates:
- 17 November 2022
 - 8 December 2022
 - 12 January 2023
- 7.5 Minutes of these meetings are available on the CPC website [Claygate Parish Council - 2022 Meetings](#) and [Claygate Parish Council - 2023 Meetings](#)
- 7.6 At the meeting with the CPC on the 3 August 2023 (the minutes of which are attached at **Appendix C**) the Council asked why, in light of the views now being expressed by the CPC, they had not challenged the decision in November 2022, it was acknowledged, on its behalf, “that they were perhaps naïve in their thinking”.

- 7.7 The CPC confirmed at the meeting with the Council on the 3 August 2023 that they are acting from a neutral standpoint and that when they became aware of the public feelings after the Kilo engagement events, they considered that it was appropriate for them to hold a public meeting to canvass the public opinion on the matter. It has been reported that the CPC meeting on the 21 July 2023 attracted 230 residents. The CPC held a subsequent meeting to report back on the meeting with the Council on the 10 August 2023.

8. INFORMATION PROVIDED BY THE COUNCIL TO THE PUBLIC

- 8.1 To ensure the public were aware of the development, news items were issued by the Council on its website on the:

- 8 November 2022
- June 2023
- 26 July 2023
- 28 July 2023
- 4 August 2023

[Redevelopment opportunity in Claygate | Elmbridge Borough Council](#)

[Torrington Lodge car park in Claygate | Elmbridge Borough Council](#)

[Addressing your questions and concerns on Torrington Lodge car park in Claygate | Elmbridge Borough Council](#)

- 8.2 The public and the CPC have been kept appropriately informed of the development in accordance with the access to information requirements and as part of the planning application full plans and information will be available for consideration and comment demonstrating full transparency.

9. ISSUES RAISED

- 9.1 The themes of the issues raised have been summarised and addressed on the Council's website:

[Addressing your questions and concerns on Torrington Lodge car park in Claygate | Elmbridge Borough Council](#)

- 9.2 The issues raised include:

- The store will bring unwanted traffic to Claygate
- Small independent shops will lose trade and lead to empty shops
- The design of the store will change the unique character of Claygate and will be detrimental to local residents
- There was an opinion of a 'done deal'
- The land will be lost as a public asset
- This development is not supported by the local plan

- 9.3 The issues raised fall into two areas:

- Planning issues; and

- conformity with due process.

10. PLANNING ISSUES RAISED

- 10.1 A number of the issues that have been raised by residents go the heart of matters which will be considered as part of the planning process. Issues such as design and traffic will have to be assessed against planning policy in the usual way as in any application.
- 10.2 There will be a formal consultation process with the opportunity for all to articulate their comments and considerations of the scheme. The Council's Statement of Community Involvement provides details of the provisions for consulting on planning applications [Statement of Community Involvement \(elmbridge.gov.uk\)](http://elmbridge.gov.uk). The CPC will be a statutory consultee for an application on this site. All views on the detailed proposal with all necessary planning information being in the public domain can be made at this time through that formal channel.
- 10.3 As part of the planning process Kilo have stated that they will be submitting a retail appraisal even though this is not mandatory for a development of this scale. Due to the concerns raised about the independent shops the Council approached Kilo to provide analysis from a similar development. This has been provided in relation to the Ashtead store, which demonstrates that there was a positive impact on the High Street and further independent stores joined the High Street since the opening of the M&S food store. It is appreciated that some might not consider that this is directly comparable, but it does provide a solid evidence base to show the economic benefits that an M&S store can bring. The evidence of the position in Ashtead supports the Council's vision that the addition of this store in the village (district) centre will maintain the vitality of the village in a sustainable way, recognising the changing pattern of work, retail and local people meeting their needs more locally.
- 10.4 This development is not against the local plan as the draft Local Plan supports mixed use development which contributes to increasing footfall and vibrancy in our towns and village centres. In particular policy ECO 3 encourages development opportunities for retail and other town centre uses where they are able to maintain and enhance the overall health, vitality and offer of a centre.
- 10.5 The planning application from Kilo will need to be considered by the Local Planning Authority in the same way as any other planning application received from a developer. The process for determining a planning application can be found on the Council's website at:
- <https://www.elmbridge.gov.uk/planning/planning-permission-and-applications/planning-applications-developers/after-submitting>
- 10.6 As this application is on Council owned land the application will be considered by the full Planning Committee in line with Members Planning Code of Good Practice.
- 10.7 The main planning considerations for this application will be:

- Principle of the development
- Provision of affordable housing for minor developments
- Design of the proposal and its impact on the character and appearance of the area
- Impact on the amenities of neighbouring properties
- Provision of a suitable residential environment
- Impact on parking and highway safety
- Impact on flood risk
- Impact on trees
- Impact on biodiversity
- Noise-sensitive development
- Community Infrastructure Levy

11. PROCESS ISSUES RAISED

11.1 It is alleged that Council has not followed due process in bringing this development forward. These allegations state that the Council has not:

- Considered other options or consulted on other options;
- Been transparent in the process;
- Fulfilled its best value duty; or
- Conducted a formal tender process with alternative options.

11.2 As is confirmed in paragraph 2 other options have been considered and dismissed as the current proposal meets the strategic placemaking aims as well as contributing to the financial stability of the Council.

11.3 A full analysis of the publication of information was undertaken as specified in paragraph 4.2. The Council has communicated with the CPC and the public to provide all the information that it was able to provide at the relevant time in full accordance with the access to information legislation and the Parish Charter in place.

11.4 There have been representations that the Council has breached its best value duties under the Section 3 of the Local Government Act 1999. This section states that the Council (1) must make arrangements to secure the continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. (2) the for the purpose of fulfilling that duty there is a duty to consult. This does not require the Council to consult on every decision that is taken. The Council's duties were considered against the recent decision in R (Williams) V Caerphilly County Borough Council [2020] and all correct procedures have been followed.

11.5 The DFA with Kilo is not a works contract under the Public Contracts Regulations 2015 and therefore the provisions of that act so relating are not applicable to this transaction.

12. ACTIONS TAKEN IN RESPONSE

12.1 In response to all the email correspondence received and the representations made by the CPC, the Council has:

12.1.1 Published statements on the 26 July 2023, 28 July 2023 & 4 August 2023

12.1.2 Published responses to questions on the 4 August 2023

12.1.3 Held a meeting with the Parish Council on the 3 August 2023

12.2 The Cabinet have taken the representations made and the request from the CPC very seriously and therefore have requested officers to put together this report for them to be able to reflect on the decision made and to consider whether to affirm the decision to proceed with the development or to agree to the request from the CPC to halt the process until an options appraisal and consultation has taken place.

13. CONSIDERATION OF OPTIONS

13.1 The CPC have called for an options appraisal to be undertaken, but this has already taken place and a further appraisal would not benefit the residents or the Council as it will only serve to delay a decision whereby losing the opportunity to enter into the DFA for a mixed-use development that has the benefits which have been outlined at the beginning of this report.

13.2 The Council needs to be prudent with its finances. A purely residential scheme has, on financial viability assessment, shown to only produce a small residual value, whereas this mixed-use development generates a substantial income stream from the retail unit, a minimal income stream from the residential units and enhanced capital value. It is this type of transaction which form part of the Council's transformation programme that contribute to the Council's overall budget and enable it to deliver such a high level of services to residents including its spending on discretionary services.

13.3 The Council could consider another mixed-use scheme for the site for example small business units or modular housing pods, but this will not produce the income stream which has been secured as part of this DFA.

13.4 The CPC also called for resident consultation on the options for the site. As specified above this is not a legal requirement. The full Council set its policies and strategies to be implemented, the Cabinet as the executive of the elected Council have the power to make the decision on the use of the site in line with the policies and strategies, which it has done. The Cabinet report provided all the details required to make a reasoned decision on the future of the car park.

13.5 It is highly unlikely that there will be a consensus view of all residents/business as to what is the 'best' use of a site. For consultation to be meaningful it must enable the consulted parties to make an informed decision regarding the impact of the proposed activities. An open-ended consultation on options for this site will

not achieve this. What will, is the statutory consultation which must take place with the planning application.

13.6 Kilo have launched a public engagement website and have distributed 8,000 leaflets to residents to encourage views to be expressed - [Torrington Car Park](#)

13.7 It is noted that a website [Save Claygate from M&S Development – Local letter writing campaign to step a development of an M&S supermarket that will have a detrimental effect on local vitality \(wordpress.com\)](#) was launched which solely asks for objections and negative opinions on the development and does not promote a balance of public views, but this website has subsequently been retired and the information is being promoted through [Claygate can do better | CVA \(claygatevillageassociation.org\)](#)

13.8 The CPC reported to the Council that they had canvassed the views of 25 traders on the development and 3 said no, 8 said yes and 14 had mixed/indifferent views.

14. OFFICER CONCLUSION

14.1 The DFA agreement and lease represents an opportunity for the authority to deliver on the Council’s Vision 2030, in terms of both housing need and economic benefits. There is local opposition to the scheme at this stage, but this opinion is based on the information in the public domain at the present time.

14.2 The planning issues raised are most appropriately addressed through the planning process, as a planning application is submitted in the public domain and the public are able to make an informed consultation response to the application based on all the evidence submitted by the developer and the CPC as statutory consultee are able to make their formal submission to the Council.

14.3 The process issues raised are unfounded. Due process has been followed from the initial consideration of the site as surplus to requirements up to the final negotiations of the DFA and the lease.

14.4 This is a financially viable and beneficial scheme which provides the placemaking opportunity that the Council is striving to achieve.

14.5 For ease of reference and in short:

Issue Raised	Council’s response
The store will bring unwanted traffic to Claygate	This will be considered under the planning consultation. The Highways Authority are a statutory consultee in that process.
Small independent shops will lose trade and lead to empty shops	Kilo have provided evidence of the positive impact of the Ashted store and will be provide a retail assessment

	<p>as part of the planning process which is beyond the statutory requirement.</p> <p>CPC's own discussions with the retailers was not all negative with only 3 out of 25 being opposed.</p>
The design of the store will change the unique character of Claygate and will be detrimental to local residents	The Council's is acting to protect the village through the proposed Local Plan and the Vision 2030. The design of the store will be assessed through the planning process.
Lack of transparency and consultation	The Council notified the CPC of the proposal for a mixed-use development of a food store and residential units on the 4 November 2022. The Vision and the Local Plan which have shaped the Council's proposal as landowner have been widely consulted upon. A full consultation will take place as part of the planning process.
There was an opinion of a 'done deal'	Assessments of options for the site has been undertaken since declaring it surplus in 2014, Kilo/M&S approached the Council with a proposal which met its strategic aims, this has been fully assessed financially and legally. The DFA is conditional on planning permission being obtained by Kilo and all planning requirements apply as they would for any developer.
The land will be lost as a public asset	The Council retains the freehold ownership of the site.
This development is not supported by the local plan	This is supported by the proposed Local Plan.

14.6 **Appendix D** demonstrates the process that the Council has followed in this matter highlighting the engagement to date.

14.7 From the analysis of the issues raised, subject to the views of cabinet, there does not appear to be any reason to not proceed with the DFA and the resulting lease with M&S. Due process has been followed and the planning issues raised are most appropriately addressed through the planning application process.

14.8 It is proposed that both CPC and the Council should proceed now in accordance with the Parish Charter and the planning process in relation to this development.

APPENDIX A – EXTRACT OF CABINET REPORT

Background

Torrington Lodge Car Park has been underutilised for a number of years. This is in a prime location in Claygate Village and has considerable redevelopment potential. The Council received an approach from Marks and Spencer PLC and more specifically their development partner Kilo Properties Limited seeking a development opportunity for an M&S food store and residential units.

The opportunity has been considered in terms of value for the use of the site and it considered that this represents a good opportunity to bring a high-end supermarket into the village, rental income from strong covenant and to provide the Council with residential units for use as much needed affordable/temporary accommodation.

1. Proposal

- 1.1 The Council received a formal approach by M&S and their selected development partner Kilo for a redevelopment opportunity for Torrington Lodge Car Park, Claygate.
- 1.2 The proposed development that they have put forward is for the construction of an M&S Food Hall store and 8 residential flats. The structure of the deal proposed by Kilo is that they enter into an agreement for lease with M&S, the Council would fund the development and at the end of the development the Council would retain ownership of the asset with the associated rental income from M&S and the residential units.
- 1.3 This an excellent opportunity for the Council to bring a high-end food store offering to Claygate. It is considered that the M&S Food Hall will not be in direct competition with other food shops in the village (e.g., the Co-Operative) as they are targeting differing markets. This promotes the Council's priority to develop thriving high streets.

2. Current Car Park usage

- 2.1 The Torrington Lodge Car Park is considerably underutilised. The average daily occupancy (based on full duration of stay) for September is around 23% including the permit holders. It is acknowledged that there has been an upturn in usage as covid recovery continues. The car park has been loss making for a number of years and has had a net loss for the last 4 years as follows £12,742 (2018/2019) £15,589 (2019/2020), £44,290 (2020/2021) and £26,777 (2021/2022).

3. Transaction details

- 3.1 The Council will enter in a Development Funding Agreement with Kilo. The Development Funding Agreement will be drafted and negotiated by the expert solicitors who have been appointed to advise on this transaction. The Development Funding Agreement will detail the Council's funding obligations and will have relevant payment trigger dates. There will be provisions to ensure that the Council's funding is safeguarded.

3.2 Kilo will appoint the contractor to undertake the development to the M&S specification and in accordance with the planning permission granted. The Council will appoint a monitoring surveyor to ensure that the funding for the development is expended in accordance with the Development Funding Agreement.

4. Lease with M&S

4.1 Once the development is completed the Council will enter into a lease with M&S for the store.

5 Affordable Housing

5.1 The planning application will be classed as a small site in terms of the residential units being provided and will be subject the Policy CS21 'Affordable Housing' of the adopted Elmbridge Local Plan: Core Strategy (July 2011) and the Statement on Affordable Housing Provision of Small Sites (update) and subject to viability there will be an affordable housing requirement.

5.2 Consideration needs to be given as to the most beneficial use of these units in terms of accommodation needs and the financial viability of the scheme. It is within the Council's Vision and Priorities to prioritise the delivery of more affordable housing by utilising council sites, through planning and housing services, and working in partnership with registered social landlords (Registered Providers) and the Council will also endeavour to ensure all temporary accommodation placements are within the borough. Having an additional 8 units will contribute to supporting those in need of accommodation.

5.3 As at the end of September 2022 there were 87 households in temporary accommodation with 36 being outside of the borough. This is the highest reported figure since the Council started recording this KPI in 2018 and represents an organisational risk. The indicators are that levels of homelessness and housing stress are likely to increase in the short to medium term, due to increases in housing costs and the 'cost of living' crisis.

5.4 As at the 7 November 2022, there were 2178 applications on the Council's housing register.

Environmental/Sustainability Implications:

In the design of the development Kilo will need to comply with all the LPA policy requirements on environment and sustainability. The M&S specification for the store contains a number of measures to drive down the carbon impact of the store.

Equality Implications:

The development will have to comply with all equality requirements set out in planning policy. There is no requirement for the Council to undertake an equality impact assessment for this project.

APPENDIX B – CONTENT OF CPC NOTIFICATION EMAIL

Issued to the Chair and Clerk @ 09:56 on the 4 November 2022:

Before the Council's Cabinet agenda is published later, I wanted to highlight an item on the agenda as it involves Claygate.

The report is confidential and therefore I am not able to provide you with a copy, but it is or the cabinet to consider a redevelopment opportunity on the Torrington Road Car Park site. The development will consist of a food store together with some residential units. Some parking provision will be retained on site for the public and users of the store.

This project is at an early stage and the Council is yet to enter into any formal agreements. When commercial confidentiality allows, we can provide you with more details and can talk you through this in further detail.

APPENDIX C – MINUTES OF 3 AUGUST 2023 MEETING WITH PARISH COUNCIL

CPC and EBC meeting on the proposed development of Torrington Lodge 3 August 2023

Attendees:

Claygate Parish Council: Sue Grose, George Marcall, Hadleigh Moon, Janet Swift, Donna Holt, Geoffrey Herbert, Gil Bray, Michael Collon.

Elmbridge Borough Council: Cllr Simon Waugh, Cllr Mike Rollings, Adam Chalmers, Sarah Selvanathan, Kim Tagliarini, Ray Lee, Victoria Statham, Stuart Le Frenais, Catherine Malloy.

Meeting started at 3pm

- Claygate Parish Council asked to record the meeting as advised by their Parish Clerk (to enable accuracy of confirming the meeting notes).
- EBC declined this request and confirmed that the meeting could not be audio recorded but instead notes would be taken and agreed afterwards.
- EBC went through their prepared presentation.

Development funding agreement (DFA)

- CPC raised questions on the development funding agreement (DFA). EBC confirmed that the DFA has not been signed, but it is close to being signed. EBC was working through the last few details.
- Based on the Cabinet and Council decisions, the DFA can be signed.
- EBC also clarified that the funding within the agreement is conditional on planning permission.

Discussions with the developer

- Questions around the length of discussions with the developer and clarity sought as to how long these discussions been ongoing for (M&S had reported to the CPC that they had been seeking a site in Claygate for 9 years). Clarification was provided from EBC that meaningful engagement started in 2021. EBC regularly receives approaches from developers.

Pause or Pull

- CPC asking if there is an opportunity to have this agreement pulled and a full options appraisal developed. EBC explained the decision had been approved by Cabinet and Council and that any proposal to withdraw would have to go back to Cabinet.
- CPC asked for clarity if an exceptional meeting of the cabinet could be called and it was confirmed by EBC that this was possible.
- CPC noted the options explored for the site but advised that in their view, a full public options appraisal would assess the benefit to the Council and the Claygate community of options such as housing only, retail and mixed use ie housing and retail.

CPC Public meeting

- Disappointment was expressed by CPC on the developer's presentation – both its content and timing. CPC then felt incumbent to hold a public meeting which was attended by 250 residents and followed up with 347 objection letters. EBC commented that support for the proposed development was also expressed at the developer's presentation meeting.
- CPC was keen to stress that whilst CPC Councillors may have individual views regarding the proposed development, CPC has yet to meet to adopt a corporate view regarding the proposed development.

Concerns

- Data information was discussed about M&S bringing footfall to the Parade, CPC challenged the usage of the term 'Anchor Store' as M&S had made it clear to the CPC that it did not use the term 'Anchor Store' for a high street store and they had advised CPC that they did not have any data to offer regarding increased foot fall after an M&S store has opened.
- Comparisons with Ashted were made. More information on this would be available as part of the planning application.
- Traffic concerns are also key for Claygate residents and form part of the groundswell of discontent. EBC confirmed that this aspect would also be picked up as part of any planning application.

Torrington Lodge Working Group

- CPC would like a Torrington Lodge Working Group to work through the options and determine the most appropriate outcome for the car park, with full acknowledgement of this being an underused asset.
- Resident discontent is also focussed on this being a 'done deal', with no true transparency or consultation. CPC believe a Torrington Lodge Working Group would help to resolve this, taking advantage of the planning and architectural knowledge in the Village.

CPC and EBC

- CPC recognises that a solution is needed but was concerned about a retail unit of this size. CPC reminded EBC that Claygate has strong credibility in challenging decisions.
- Cllr Simon Waugh explained that he wasn't involved in the decision last year due to his neutrality as Mayor. He asked why CPC has not challenged the proposed development when they were first informed by EBC in Nov 2022.
- CPC explained that they had been perhaps naïve in their thinking that full proposals would be sent to them in advance of the project being progressed.
- Cllr Waugh explained that it was felt that a M&S would fit well with the demographic of Claygate. That the proposal would be better than a full residential development option and that as the Cabinet Member for Commercial Strategy he was supportive of the proposal.
- Cllr Mike Rollings explained he had brought this to Cabinet last year, as potentially good for EBC and Claygate. He is very aware of the anti-view, but there is some support. He is in listening mode, but he felt it was important to

remind the CPC that he had been the Cabinet Member responsible for the proposal as he felt it was a good idea.

Conclusions

- CPC reiterated their view that the proposed development should be pulled or paused. They want EBC to bring it back to Cabinet asap with a pull or pause proposal. They fear for the future existence of the high street. This is not NIMBY-ism, they understand housing is needed.
- Adam Chalmers confirmed that EBC would consider and respond to the request for a pull or pause. He also thanked the CPC for articulating that they had entered the meeting without having yet adopted a corporate view regarding the proposed development.
- EBC thanked the Parish Council for highlighting their perception of the depth and totality of concern in the local community and for setting out what they saw as the key risks to Claygate. • EBC confirmed the proposed lease with M&S is 15 years.
- EBC confirmed the planning process would address all the concerns regarding transport, retail impact, community impact etc etc. Evidence will be presented as part of the planning process.
- The information around the options considered by EBC are commercially sensitive and cannot be shared even through FOI/EIR.
- CPC were keen to stress that if an options appraisal for Torrington Lodge was to be agreed to, it felt it could offer a partnership approach.
- EBC reiterated that they would continue to work in partnership with CPC.

The meeting ended at 4.10pm

APPENDIX D – TIMELINE OF PROCESS

