

# Planning Committee

## Tuesday, 06 September 2016

**Attendees:** Councillor Lyn Barton (Member), Councillor Helen Chuah (Member), Councillor Pauline Hazell (Group Spokesperson), Councillor Theresa Higgins (Chairman), Councillor Brian Jarvis (Member), Councillor Cyril Liddy (Deputy Chairman), Councillor Derek Loveland (Member), Councillor Jackie Maclean (Member), Councillor Philip Oxford (Group Spokesperson), Councillor Rosalind Scott (Member)

**Substitutes:** No substitutes were recorded at the meeting

### 372 Site Visits

Councillors Barton, Hazell, Higgins, Jarvis, Liddy, Loveland and J. Maclean attended the site visits.

### 373 Minutes

There were no minutes for confirmation at this meeting.

### 374 152817 Parcel SR6, Tollgate Road, Stanway

**Councillor Maclean (in respect of her acquaintance with a number of the objectors to the application) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a reserved matters application for approval of 28 affordable dwellings on Parcel SR6 including access, appearance, landscape, layout and scale at Tollgate Road, Stanway. The application had been referred to the Committee because it had been called-in by Councillor Bentley. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Vincent Pearce, Planning Projects Specialist, presented the report and, together with Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations.

The Planning Projects Specialist confirmed inclusion in the amendment sheet of

commentary on the legal opinion provided to Stanway Parish Council and an update on consultation responses from the public whilst a letter of objection that had also been received from the Right Honourable Priti Patel MP was summarised. He further explained that the Secretary of State for the Department of Communities and Local Government had not issued a holding objection to the application prior to the meeting advising that the Secretary of State was considering whether to call-in the application for his determination and requested that the Council did not determine the application but, as such, it did not prevent the Committee from determining the application.

At the start of the meeting the Chairman accepted a petition from Katy Adams entitled 'Keep our green open space to the Churchfields Avenue entrance to Lakelands, Stanway' which had approximately 1,032 signatures attached to it.

Steve Mann, on behalf of Stanway Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the Parish Council had no objection to the principle of affordable housing, rather it was concerned about the proposal for three storey dwellings and the impact these would have upon the existing properties located nearby. He referred to the Council's policy on affordable housing which specified a pepper-potting approach in clusters of 15 and he did not consider the proposals to accord with this principle. He referred to the very large number of objections to the proposals on the Council's website and explained that the Parish Council had commissioned a Barrister's report in order to provide an independent view on the background to the development. He considered the offer made by Flagship to give responsibility for the open space area to the Parish Council a method to buy support for the proposals from the community and he urged the Committee to oppose the application.

Matt Free, on behalf of the local community, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered the proposals did not respect the local context and that they were out of character with the existing residential area. He was of the view that the quality of design and character of the proposals were poor. The existing development was of low density with generously spaced dwellings whereas the proposals included a large terraced block which would be particularly out of character for the area. He was of the view that Robin Crescent was not a typical example to use as a comparison. He considered the views of local people had not been adequately sought and that the local community was not being allowed to participate in shaping this local development.

Robert Tovey, on behalf of Lakelands residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was a resident of Nightingale Place, facing the proposed development, and wished to make representations in relation to the eastern part of the SR6 application and in relation to the legal opinion commissioned by Stanway Parish Council. He considered that the proposals did not comply with the 2010 masterplan

objectives for the area on the grounds that the affordable housing element was not located in accordance with the principle of pepper-potting in parcels of units of 12 or less and because it was never intended to have development of a built form across the middle of entrance land to Lakelands that was shown in the Adopted Local Plan as open space. He was of the view that the number of spaces proposed for the parking courtyard serving the properties at the entrance was excessive and the courtyard itself should be relocated to the rear of the properties to lessen the visual impact for existing residents. He considered that the proposals for flats to be located on the entrance land did not blend in with previous phases of development and referred to advice in the legal opinion sought by Stanway Parish Council which confirmed that the proposals needed to comply with both local and national planning policies and guidance and was of the view that the affordable housing element, providing for 28 affordable units did not comply with the pepper-potting principles stipulated in the Council's affordable housing policy. He considered that the proportion of SR6 land allocated for open space in the Local Plan strongly suggested development of a much lower density. He supported the stance set out in the legal opinion commissioned by Stanway Parish Council that the applicants could easily formulate an alternative proposal which would retain all the open space at the entrance land. He also agreed with a further view of that legal opinion that the Committee was able to refuse the application on the basis that a better proposal which retained more open space whilst still complying with local and national policies could be produced. He was therefore of the firm view that the entrance land could be retained as open space which was what the community wanted.

Nicole Wright, of La Ronde Wright Ltd on behalf of Flagship, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She referred to the comprehensive presentation made to the Committee by the case officer and the legal opinion included in the Committee report. She considered that the principle of the development had already been approved and the current application was being determined in order to agree the reserved details. She referred to comments regarding the number of affordable houses being proposed and explained that this would not be the largest affordable housing scheme given approval in the Borough and that the Local Plan currently quoted a ratio of 19.2%. She considered that the proposals, including the open space allocation, were in accordance with the masterplan requirements. As such, she was of the view that there were no grounds to refuse the application and hoped the Council would avoid the potential risk of costs should the application be the subject of an appeal.

Carla Ridgeway, on behalf of Flagship, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that the balance of the Section 106 agreement requirements was being provided from elsewhere on the Lakelands development. She explained that a contract had been let to complete the building of a number of plots within the wider Lakeland development. This contract had been held back pending the determination of the two applications being considered by the Committee at this meeting and Flagship were now

very keen to progress the schemes in order to avoid increased costs. She considered that the proposals would deliver good quality housing in-keeping with the surroundings. Flagship had 25 years of experience of managing affordable housing schemes in Colchester and they worked to ensure that they were managed to a very high standard. She confirmed that Flagship would be happy to retain ownership of the open space areas should the Parish Council not wish to assume responsibility for them. She was of the view that the proposals would fulfil the Section 106 obligations in line with the design and access statements and, as such, there was no planning reason for the Committee not to give its approval.

Councillor F. Maclean attended and, with the consent of the Chairman, addressed the Committee. She explained that she was representing the residents of Stanway who considered the application should be refused. She said that residents had bought their properties on the basis that the land would be retained as open space. The design contained in the proposals was not in-keeping in that the dwellings were too high and too dense. She considered that compliance with the design and access statements had been achieved through the 'goal posts' being moved by the Council. She was concerned that reasonable expectations for consultation to be undertaken had been disregarded and that the National Planning Policy Framework had been ignored. She was of the view that 28 affordable housing units were unreasonable for the size of the SR6 plot as a whole. She considered that the developers could be more flexible in their approach and that a revised proposal could be formulated to provide a larger area of open space to the eastern side of the site. She referred to the very considerable level of opposition to the proposals from residents, Borough Councillors, County Councillors and a Member of Parliament and she considered it important to ensure that Councillors were held to account and that the decision making was reasonable.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He thanked the Committee members for considering the application at a special meeting and had been unaware that there was concern in relation to contractual costs for the applicant. He explained that residents' concerns were not about nimbyism, bearing in mind the amount of development which had recently taken place in Stanway. He did not consider the application to be straight forward due to a number of questions. He understood that the area of land known as the 'mound' was to be excavated but that some of the proposed dwellings would be taller than existing properties. He referred to the area of open space, its designation as such and residents' decisions to purchase their properties on this basis. He was also concerned that no consultation had been undertaken in relation to the change to the masterplan and the resulting reduced size of open space which would remain. He also questioned the future maintenance responsibility for the open space and referred to the need for the affordable housing element to be properly pepper-potted in accordance with the Council's policy.

The Chairman read a statement on behalf of Councillors Jessica and Lesley Scott-Boutell who were unable to attend the meeting due to a prior holiday commitment. The

statement referred to the significant level of local opposition to the application, the legal opinion obtained by the Parish Council and the need for an Ecological Impact Assessment Study, given evidence of protected wild flowers in Stanway. The statement also mentioned the absence of a drainage strategy and concerns regarding the impact of the proposals on the local highway network and of the design on the existing dwellings.

In response to comments raised, the Planning Projects Specialist demonstrated that, in planning terms, no significant adverse impact would be caused to existing residents due to the distances between the existing and the proposed dwellings. In particular he highlighted the 42 metre distance between the nearest dwelling in Partridge Way. He acknowledged the legal advice provided to Stanway Parish Council and confirmed that the determination of the application remained a judgement to be made by the members of the Committee, in consideration of all the facts. He confirmed that it was outside of the Committee's remit to suggest to the applicant an alternative design or layout involving removal of 12 units. He further indicated that the proposals could not be deemed to be high density. An offer had been made by Flagship to the Parish Council to transfer ownership of the open space area, however, if this was declined, Flagship had confirmed their willingness to continue to maintain it for the future. He was of the view that the design of dwellings was similar to existing properties at Lakelands. The three storey element in the proposals was below the maximum height criteria included in the masterplan, whilst the proposals were also in accordance with parking, garden and overlooking standards. He further explained that the site of the open space was the subject of outline planning permission for residential development and both the Borough and Parish Council's legal opinions had agreed that this status outweighed any alternative designation in the Local Plan. The Section 106 agreement for Lakelands provided for a number of open spaces, including the Country Park and the lake, which were far in excess of the 10% required for the development as a whole and, as such, there was no specific requirement for any open space provision within the SR6 plot. It was also confirmed that a Community Centre would be provided within the site of the Country Park, as part of the Wyvern Farm development. The affordable housing elements had been well dispersed across the various plots comprising Lakelands. The provision of affordable housing was a Council priority in order to address the significant numbers of people in the Borough in housing need and the Brook Street development was an example of 100% affordable housing provision, much greater than the Council's current target. The level of affordable provision in other phases of development at Lakelands had also been a reflection of the requirement to deliver the Western Bypass at an early stage of the development with the affordable housing phased in with the later stages. The legal opinions had also confirmed that the revision of the masterplan in 2010 had been lawful with no statutory requirement to undertake consultation. The Planning Projects Specialist went on to explain that the mound area would be subject to excavation to reduce the difference in levels. He explained that, in the course of house conveyancing, prospective purchasers would have been made aware, through local searches and associated additional information, of the wider planning history of the site beyond the basic land use allocation. He stated that the Wildlife Trust had confirmed no

rare orchids had been found on the site and that what had been reported as orchids were evening primrose and that a drainage strategy for Lakelands as a whole had been agreed at an earlier phase. The local Highway Authority had raised no objection in relation to the existing highway network, impact on congestion and safety of pedestrians whilst the proposals were in accordance with the current parking standards, including those for visitor parking. It was also confirmed that it was possible for the Committee to either await the outcome of the Secretary of State's consideration or to proceed to determine the application.

Some members of the Committee were concerned regarding the absence of consultation on the revision to the masterplan, potential overshadowing from the three storey dwellings on existing properties and the location of amenity space requiring the crossing of a very busy road in order to gain access to it and expressed their disappointment that the applicants had been unwilling to revise their proposals to accommodate concerns from local residents and with references being made to the awarding of costs if the application were referred to appeal. The significant number of residents objecting to the proposals was also acknowledged together with the comments in relation to the grouping of the affordable housing element.

One member of the Committee referred to the holding objection from the Secretary of State and, as such, questioned whether it would be possible to defer consideration of the application.

Other Committee members referred to the legal opinions which had both confirmed that the revision of the masterplan had been lawful and welcomed the good quality design and layout of the proposals. The concern of residents was also acknowledged but there was not considered to be sufficient material grounds to refuse the application, particularly given the Government's stated priority for the delivery of additional housing.

The Planning Projects Specialist explained that proposals for a formal crossing to the Country Park had previously been rejected by the highway authority. He was of the view that a request to include the provision of a crossing as part of these proposals was unlikely to be considered reasonable and would in any event require Essex County Council's acceptance in highway terms. The applicants were very keen to progress with implementing the proposals as further delays were likely to lead to increased costs, as such, although the masterplan provided for a maximum of four storey elements, he considered it unlikely there would be a request for the three storey units proposed to be increased. The Stanway Village Design Statement had made no specific reference to this site or the acceptability or otherwise of residential development upon it.

RESOLVED (SIX voted FOR and FOUR voted AGAINST) that the application be approved subject to the conditions set out in the report.

**375      151479 Lakelands Development Site, (Parcel NE2), Church Lane, Stanway**

The Committee considered an outline application for the proposed residential development of land known as parcel NE2 (including affordable housing) together with associated landscaping, access roads, car parking, infrastructure and other ancillary works at the Lakelands Development Site, Church Lane, Stanway. The application had been referred to the Committee because it was a major application which was a departure from the Adopted Local Plan and was also subject to a Section 106 Agreement. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Vincent Pearce, Planning Projects Specialist, presented the report and assisted the Committee in its deliberations. He explained that, prior to the start of the meeting, the applicants had agreed to amend the description of their application by means of the withdrawal of a reference to 'up to 65 new dwellings'.

Alex Chapman, on behalf of O and H Properties, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that all the Section 106 agreement Heads of Terms relating to sports, community facilities, affordable housing and education provision had been agreed and were awaiting signature. He considered that the site was capable of providing up to 65 new homes with a 20% affordable housing element but as they had not had sufficient opportunity to adequately demonstrate this in plan form, the suggested amendment to the application was acceptable.

RESOLVED (UNANIMOUSLY) that –

(a) The Head of Commercial Services be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet, also as advised at the meeting in relation to the amendment of the wording to Condition 5 and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months authority be delegated to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide for:

- 20% affordable housing;
- an education contribution;
- community facility contribution;
- sports and recreation contribution and
- including a clause triggering an appropriate financial contribution from the developer/owner or relevant party with an interest in the land to the Council in lieu of any affordable unit not provided on the site of NE2 in order that the Council or its nominee can facilitate or otherwise procure the delivery of affordable housing.

(b) The reserved matters application be referred to the Committee for consideration and determination.