

MID SUFFOLK DISTRICT COUNCIL  
DEVELOPMENT CONTROL COMMITTEE - 06 January 2016

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<b>AGENDA ITEM NO</b>	1
<b>APPLICATION NO</b>	3010/15
<b>PROPOSAL</b>	Proposed residential development, associated highway, car parking and open space.
<b>SITE LOCATION</b>	Land at Chilton Leys, Bury Road, Stowmarket
<b>SITE AREA (Ha)</b>	0.46
<b>APPLICANT</b>	Laurence Homes (Eastern) Ltd
<b>RECEIVED</b>	August 24, 2015
<b>EXPIRY DATE</b>	November 27, 2015

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**REASONS FOR REFERENCE TO COMMITTEE**

The application is referred to committee for the following reasons:

- (1) a Member of the Council has requested that the application is determined by the appropriate Committee and the request has been made in accordance with the Planning Code of Practice or such other protocol / procedure adopted by the Council. The Members reasoning is included in the agenda bundle.
- (2) the Head of Economy considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council, the extent and planning substance of comments received from third parties and the location of the application within a defined Visually Important Open Space.

**PRE-APPLICATION ADVICE**

1. The applicant sought pre-application advice from Planning Officers. Advice was provided based on comments received from Triage Panel meeting held on 17/03/2015 which supported the principle of the development due to the Council's lack of a 5 year land supply.

**SITE AND SURROUNDINGS**

2. The application site is an area of open space located between existing residential developments on Burns Drive and Walton Close. The site has a total area of 1.14 acres and extends from the edge of Chilton Way to what is currently open countryside beyond. The site is privately owned but is frequently informally used as a footpath, linking to a landscaping buffer strip to the north-west of the site.

Development along Chilton Way is varied with predominantly modern development on its northern side including a two storey dwellings to the west and a mix of two and three storey dwellings to the east.

The site is currently an area of grass with the western boundary consisting of an area of hedge. There are a mix of hawthorn, field maple and cherry trees within

the site. The site frontage has a boundary of young but established hedge with ash trees set back from the highway to allow visibility with a green verge alongside the Chilton Way footpath.

### HISTORY

3. The planning history relevant to the application site is:

2722/13	Full Planning Permission for: Erection of 215 dwellings/flats with associated garaging, private and visitor parking, sheds and accesses. Provision of public open space and landscaping, including SUDS and attenuation basin. Construction of new estate access road and junction improvements.	Granted 17/04/2015
	Outline Planning Permission (with all matters reserved except for access and landscaping) for: Change of use of 1.34ha land to A3, A4, B1, B8, C1, D1, D2 uses.	
	Outline Planning Permission (with all matters reserved except for landscaping) for: Change of use of land to School.	
1952/08	Revised layout of parking/garaging facilities (previously approved under 0189/06) part submission of reserved matters pursuant to permission OL/100/01	Granted 16/07/2008
1969/06	Variation of condition 8 of Outline Planning Permission 0100/01 to allow visibility sight lines to change from 9m x 90m to 4.5m x 70m and the provision of an additional access.	Granted 08/12/2006
0189/06	Application for Approval of Reserved Matters for 39 (2, 2.5 & 3 storey) dwellings in respect of siting, design, appearance and means of access (pursuant to Outline Planning Permission OL/100/01 as varied in respect of condition 8 by planning permission 1969/06)	Granted 08/12/2006
0100/01	Residential Development (Area J, Chilton Way)	Granted 12/08/2005

### PROPOSAL

4. Outline permission is sought for residential development of the site with associated access, car parking and open space.

An indicative site layout has been submitted to show that 10no. dwellings could be provided including 7 no. 3 bed dwellings and 3 no. 4 bed dwellings, open space and a children's play area.

The applicant has offered to transfer ownership of the tree belt and associated land which is located to the rear of the site to MSDC as shown on plan no. 13.066/102 received 17/12/2015.

## POLICY

### 5. **Planning Policy Guidance**

See Appendix below.

## CONSULTATIONS

### 6. **Stowmarket Parish Clerk**

The Town Council recommends refusal of the planning application on the following grounds:

- i) That, contrary to planning policy **CL08**, the proposed development will bring about the loss of an important habitat which is well-used and well-loved by the local community;
- ii) That, contrary to planning policy **COR05**, the proposed development will not maintain or enhance the environment... and retain the local distinctiveness of the area. In particular the Town Council is concerned about the loss of the green corridor that the site currently provides;
- iii) Planning policy **EEENV01** states "Areas and networks of green infrastructure should be... protected, enhanced and managed to ensure an improved and healthy environment is available is for present and future communities". The Town Council believes that the proposed development would destroy an important area of green infrastructure.
- iv) Planning policy **H16** states "...the District Planning Authority will refuse the loss of open spaces which contribute to the character or appearance of an area and which are important for recreation or amenity purposes". The Town Council considers the green area contained within the application site to be an important area for recreation and amenity purposes.
- v) That, contrary to planning policy **SB2**, the proposed development will adversely affect an existing open space which provides important amenities for the local community.

### **Suffolk County Council - Landscape Development Officer**

'The development of this space will erode the overall balance of green infrastructure and linking spaces through the estate. The various approved master plans and planning layouts have indicated that this space was needed in

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order to create an amenity greenspace/play space for residents and I see no reason to put aside these established design concepts for green space infrastructure. In addition the land is a designated VIOS which is intended to protect the green spaces in Stowmarket.'

**MSDC - Tree Officer**

The few trees potentially affected by this proposal are of limited/moderate amenity value and need not be considered a constraint subject to appropriate new planting in mitigation.

**SCC - Corporate S106**

106 Contributions would be required for the following:

- Education - £36,543

Conditions are recommended to address the following issues:

- Play space provision
- Travel plan
- Waste
- SuDS

**MSDC Public Realm**

Subject to the land as shown on plan no. 13.066/102 received 17/12/2015 being made publically available for access to Chilton Fields and proposed allocated development sites then MSDC would be willing to take on ownership of the land.

**Suffolk County Council - Highways**

No objections subject to conditions

**MSDC - Environmental Health - Land Contamination**

In order for the Applicant to demonstrate the suitability of the site for its proposed sensitive end use i.e. dwelling house(s) we would require a full Phase-I investigation study to be undertaken by a competent and appropriately qualified person, incorporating a desktop study, site walkover and initial risk assessment and that would be fully compliant with BS10175 to be submitted prior to any permission being granted.

**MSDC- Environmental Health - Sustainability Issues**

It is recommended that development should be built to the equivalent of Code for Sustainable Homes Level 4.

**Command Support Team, Suffolk Fire and Rescue Service**

Fire Hydrants should be provided in accordance with standing advice.

**LOCAL AND THIRD PARTY REPRESENTATIONS**

7. This is a summary of the representations received.

49 objections have been received summarised into the following key issues:

1. The area is an important are of open space, well used by the local community
2. The area has been protected in the past
3. The area is a designated VIOS

4. Development would be contrary to policy
5. The area is well used as a footpath for dog walkers and for children's play
6. There are few other open spaces in the area
7. The proposed development would add to congestion in the area
8. Other brownfield sites are available in Stowmarket
9. The area is of increased importance if other development in the area takes place
10. Loss of trees
11. Loss of visitors parking
12. Loss of natural habitat

## **ASSESSMENT**

8.
  - Principle of development
  - Planning history
  - Design and layout including surrounding sites
  - Loss of open space (VIOS)
  - Infrastructure contributions

### **Principle of development**

The Council acknowledges that it is unable to demonstrate a five-year supply of deliverable housing land, as required by paragraph 47 of the Framework. Accordingly, in accordance with paragraph 49 of the Framework, the proposal should be considered in the context of the presumption in favour of sustainable development. For the purposes of decision taking, that means granting planning permission unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework, taken as a whole.

The application site is within the settlement boundary of Stowmarket. The principle of infill development within the settlement boundary of Stowmarket is supported by the NPPF's presumption in favour of sustainable development, Core Strategy Focused Review policy FC1 and FC1.1, Stowmarket Area Action Plan (SAAP) Policy 4.1, Core Strategy CS1 and Local Plan Policy H2, subject to detail and no adverse impact on residential amenity, traffic or other material consideration.

The site is in private ownership but is allocated as a Visually Important Open Space (VIOS) in the SAAP Policy Strategy Policy 4.2 and Local Plan SB3. SAAP Policy 4.2 – Providing a Landscape Setting for Stowmarket states:

*'The council will resist development that would have a harmful effect on the value of a Visually Important Open Space and will require developments that may have a detrimental effect on the quality of a Visually Important Open Space to be sensitively designed to minimise these effects.'*

Local Plan Policy SB3 states:

*'Within or abutting settlement boundaries, visually important open spaces will be provided because of their contribution to the character and appearance of their surroundings and their amenity value to the local community. The District*

*planning authority will resist development which would have a harmful effect on these identified Visually Important Open Spaces because of their contribution, in an undeveloped form, to the distinctiveness of their setting or the character of a settlement or nearby landscape.'*

Local Plan Policy RT3, RT5, SAAP Policy 10.1, 10.2 and 10.3 seek to protect existing green open spaces and improve their quality and linkages where possible.

The application site has formed part of the site area of historical planning applications set out above. The application site has been set out in approved plans as an area of open space. Application ref. 1969/06 sets out the area as open space with the provision of a play area. Condition 5 of 1969/06 states:

*'No development shall take place until precise details of the provision, siting, surface treatment of children's playspace (s) together with details of the equipment to be provided and a timetable for the provision of the facility has been submitted to and approved in writing by the Local Planning Authority. The approved details approved in writing by the Local Planning Authority shall be provided in their entirety and be made available for use in accordance with the agreed timetable, and thereafter retained for public use unless the Local Planning Authority agrees in writing to a variation.*

*Reason - In the interests of amenity and child safety.'*

Details of the play area were agreed with a discharge of condition application being granted in 2009 which required the play area to be provided prior to the occupation of the first dwelling and made available for public use. No detail for the long term management of the play area was agreed and no transfer of the land was agreed as part of the condition.

There is potential to enforce against a breach of condition for the provision of play equipment. However, due to the wording of the condition and a lack of any supporting 106 agreement, the long term ownership and management of the play equipment has not been provided for and no public access to the surrounding land can be secured.

The principle of residential development within a sustainable location is supported, particularly in light of the Council's lack of 5 year land supply and the NPPF's presumption in favour of sustainable development. However, the site is within an area of privately owned land that is designated as a VIOS and which is informally used by members of the public. The impact on the character and appearance of the area and its amenity value is of particular importance.

### **Design and layout**

The proposed development is for outline permission only but development would infill a valued area of open space between existing developments along Chilton Way. NPPF paragraphs 56 - 58 require any new development to be of good quality design. This is reiterated as Core Strategy CS5 which requires new development to protect or enhance the character and appearance of the area and to respect the local distinctiveness of its setting. Local Plan Policy GP1 and

H13 require that any new development be in keeping with the character and of the area and not detract from the amenity of existing dwellings.

An indicative site layout has been provided that shows residential development for up to 7no. 3bed units and 3no. 4bed units including new and retained planting, the retention of open space and the potential provision of a Local Area for Play (LAP). The site has been laid out with open space retained along the northern boundary to retain an element of landscape buffer and the potential for a footpath link to land to the west of the site. Given the spacing, layout and indicative designs it is considered that a specific layout of the development is largely in keeping with existing two storey dwellings in the area.

The open space allows open views towards the countryside to the west of Stowmarket and provides a natural break to residential development along Chilton Way. The proposed development would result in continuous development along Chilton Way from the allotments up to the Rugby Club.

Whilst the open space is considered to enhance the character and appearance of development along Chilton Way by creating a visual break, if the principle of development is supported then it is likely that design and layout details could be secured through a reserved matters application that ensures that is in keeping with the character and appearance of the area.

#### **Loss of Visually Important Open Space (VIOS)**

SAAP Policy 4.2 and Local Plan Policy SB3 set out the importance of VIOS's in the appearance of the wider area and their amenity value to local community. The application to redevelop the VIOS is considered in relation to the Council's lack of 5 year land supply as well as recent planning applications that have been granted in the vicinity.

SCC's Landscape Architect has considered the proposal and states that the VIOS adds to the character and appearance of the area by providing 'breathing space' and a 'green lung' between estate developments along Chilton Way.

Representation has been received from local residents objecting to the proposal on the grounds of the impact that the development would have on the character and appearance of the area.

Outline permission has recently been granted for a mix of residential and commercial properties to the north and north east of the site (2722/13) (Copy of approved Landscape Strategy Plan in agenda). The site is also within the Chilton Leys allocation as set out in the SAAP and the area is shown as being retained as a landscape buffer in the Chilton Leys Development Brief (copy in agenda). Considering these, the site has become enclosed by new development so any long range views of the surrounding countryside from Chilton Way have been lost. However, if the surrounding area becomes developed further, the value of green open space to the local community is likely to be increased.

As part of the current proposal, the land to the rear of the site is offered to MSDC to be made publically available. This would allow public right of way from Chilton Way through to Chilton Fields and the associated allocated development sites in the area. The provision of this strip of land is considered to present an opportunity for the Council to improve public linkages to other development sites

in the area. This opportunity is to be weighed against the loss of the VIOS.

### **Section 106 agreements**

Supplementary Planning Document for Social Infrastructure including Open Space, Sport and Recreation requires contributions to be made towards the provision of local services and facilities. SAAP Policy 11.1 and Core Strategy CS6 seek to ensure that appropriate contributions are secured from new development for the provision of services and infrastructure.

The application proposes to provide open space within the site including a Local Area of Play (LAP). Comments have been received from SCC Infrastructure setting out a need for contributions of £36,543 for the provision of education arising directly from the proposed development.

The applicant has also offered to transfer ownership of the buffer strip to the rear of the site that runs behind existing dwellings on Shakespeare Road and Kipling Way to the Council. Currently, this land is private but is frequently used by the local community. The transfer of ownership of the land to the Council presents the opportunity to ensure public access and improve pedestrian linkages with other proposed development in the vicinity. It is considered reasonable that this be included in a 106 agreement to secure the long term public accessibility of the land.

The development of 10 dwellings is below the threshold for the provision of affordable housing as set out in Altered Local Plan Policy H4 and therefore no contribution towards the provision of affordable housing is required.

The application would result in a requirement of OSSSI contributions totalling £78,905. However, in light of CIL 123 regulations, the pooling of contributions is restricted and collection should be considered carefully to ensure compliance. Provision is also made for the on-site provision of a LAP and landscaped open space. In light of CIL 123 regulations it is considered that on-site provision of play space adequately provides for the requirements of the SPD and CS6.

The applicant acknowledges that the application site has been set out as open space as part of previous permissions and has been subject of a condition that requires play equipment to be provided. In lieu of this and as part of the proposal the applicant is willing to transfer land as shown on plan no. 13.066/102 received 17/12/2015 to MSDC to be adopted and made publically available (which your officers welcome).

Should permission be granted it is recommended that it be subject to securing a 106 agreement for the heads of terms set out in the recommendation below.

### **Residential amenity**

Local Plan Policy H13 and H16 state that development which would have a detrimental impact on the amenity and privacy of adjacent dwellings will be refused. The NPPF and relevant Planning Practice Guidance (PPG) recommend that planning permission should not be granted where there would be adverse impact on residential amenity.

Details of the external appearance of the proposed dwellings are not subject of



this application. However, the proposed layout of the development would retain a minimum distance of 17m between the side of plot 1 and no. 3 Walton Close. The closest back to back relationship would be between proposed plot 4 and no. 4 Walton Close, retaining a distance of 22m including retained boundary planting.

Considering the proposed layout of the site it is considered reasonable that details as will be required in a reserved matters application would avoid a significant and detrimental impact on the residential amenity of neighbouring properties.

### **Conclusion**

The application seeks outline permission for a residential development on an area of privately owned open space which is designated as a VIOS. The application site has been included as open space as part of previous permissions for residential development to the south of the site but play equipment has not been provided, in breach of condition. However, to offset the loss of the VIOS, land is being offered that would allow public access from Chilton Way through to Chilton Fields. This is considered to be a benefit to the community in that this would secure public access in place of the current situation where the land remains in private ownership with informal access only. The transfer of the land would also allow the opportunity to improve linkages with other residential development proposed in the area.

The Council has failed to demonstrate a 5 year land supply and therefore the harm arising from the provision of 10no. new dwellings in a sustainable location should be considered carefully in relation to the NPPF's presumption in favour of sustainable development. The development would infill an area of visually important open space which would detract from the setting of other developments along Chilton Way. However, it is considered that significant harm to the character and appearance of the area could be prevented by securing a good quality development with appropriate landscaping as part of any reserved matters application. Also, whilst the development would override a historical condition for the provision of an area of play, this was compromised by the land which would have surrounded the play area as remaining in private ownership. The provision of a new play area and the potential transfer of land to the ownership of MSDC is considered to be a benefit to the locality and future development that would outweigh the negative impact of the loss of the VIOS.

### **RECOMMENDATION**

**That authority be delegated to The Corporate Manager for Development Management to grant outline planning permission subject to the prior completion of a Section 106 on terms to his satisfaction to secure the following head of terms and that such permission be subject to the conditions as set out below:**

- **Contribution towards the provision of Suffolk County Council Infrastructure – Primary education of £36,543**
- **An obligation to secure the provision, equipping, long term management and adoption (with an agreed commuted sum) of the open space and buffer strip as shown on plan no. 13.066/102 received 17/12/2015**

**Conditions:**

1. Standard time limit
2. A reserved matters application to be submitted and agreed
3. Approved plans agreed
4. Materials to be agreed
5. Highways ER1 – Details of surfacing and drainage
6. Highways ER2 – Provision of roads before occupation
7. Highways P1 – Provision of parking as set out on plans
8. Protection of existing trees and planting
9. A scheme of hard and soft landscaping to be agreed
10. Landscape management and implementation to be agreed
11. Details of surface water disposal to be agreed
12. Details of land contamination to be agreed
13. Details of provision of footpath link to Chilton Fields to be agreed
14. Construction hours to be agreed
15. Provision of fire hydrants, number and position to be agreed

Philip Isbell  
Corporate Manager - Development Management

Mark Pickrell  
Senior Planning Officer

**APPENDIX A - PLANNING POLICIES**

**1. Mid Suffolk Core Strategy Development Plan Document and the Core Strategy Focused Review**

**Cor1** - CS1 Settlement Hierarchy

**Cor5** - CS5 Mid Suffolks Environment

**CSFR-FC1** - PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

**CSFR-FC1.1** - MID SUFFOLK APPROACH TO DELIVERING SUSTAINABLE DEVELOPMENT

**Cor6** - CS6 Services and Infrastructure

**CS SAAP** - Stowmarket Area Action Plan

**2. Mid Suffolk Local Plan**

**GP1** - DESIGN AND LAYOUT OF DEVELOPMENT

**SB3** - RETAINING VISUALLY IMPORTANT OPEN SPACES

**H13** - DESIGN AND LAYOUT OF HOUSING DEVELOPMENT

**H14** - A RANGE OF HOUSE TYPES TO MEET DIFFERENT ACCOMMODATION NEEDS

**H15** - DEVELOPMENT TO REFLECT LOCAL CHARACTERISTICS

**H16** - PROTECTING EXISTING RESIDENTIAL AMENITY

**H17** - KEEPING RESIDENTIAL DEVELOPMENT AWAY FROM POLLUTION

**H2** - HOUSING DEVELOPMENT IN TOWNS

**RT3** - PROTECTING RECREATIONAL OPEN SPACE

**RT5** - RECREATIONAL FACILITIES AS PART OF OTHER DEVELOPMENT

3. **Planning Policy Statements, Circulars & Other policy**

**C01/03** - Safeguarding aerodromes, technical sites and military explosives

**NPPF** - National Planning Policy Framework

**SPD-OSSI** - Open Space & Social Infrastructure

**APPENDIX B - NEIGHBOUR REPRESENTATIONS**

Letter(s) of representation(s) have been received from a total of **49** interested party(ies).

The following people **objected** to the application

[Redacted]

The following people **supported** the application:

The following people **commented** on the application:

[Redacted]

