

East Street plan faces legal threat

THE long-delayed Brightwells scheme in Farnham could soon face its biggest challenge yet after an influential group of Farnham civic societies threatened legal action this week unless Waverley re-opens the tendering process for the controversial town centre redevelopment.

The Farnham Interest Group, headed by planning watchdogs the Farnham Society and the Farnham (Building Preservation) Trust, hope to deliver a fatal blow to the Waverley Borough Council-backed scheme after writing to the borough solicitor Daniel Bainbridge promising to hold councillors to account should they proceed with the "illegal" development.

It represents the first step towards a judicial review and was provoked by yet another application for amendments to the redevelopment of land south of East Street by developer Crest Nicholson, which was awarded the contract to design and build the scheme in 2003.

Crest's latest application (WA/2016/0268) seeks to increase the size of an extension to the Grade II listed Brightwell House and, significantly, to confirm the relocation of the Brightwells Gostrey Centre to the Farnham Memorial Hall in West Street.

The Gostrey Centre was promised a new purpose-built building at the heart of the East Street scheme in the original 2003 development agreement and the older people's day centre remained a mandatory element of Crest's renewed 2010 contract.

But despite Crest telling a Government inspector in January 2013 that funding was in place for Brightwells, it soon emerged that this funding offer was in fact subject to Waverley removing the day centre from the development.

In a meeting of the Brightwell Steering Group in March 2013, Crest told the council in no uncertain terms "the funding offer was conditional on the value enhancement of removing the day centre from the development".

Waverley bowed to Crest's demand and after a decade of delays, the dilapidated Gostrey Centre's exasperated trustees endorsed a move to the Farnham Memorial Hall

in West Street - an amendment that is set to cost the taxpayer more than £1.5 million.

However, according to the Farnham Interest Group, Waverley's decision to remove the Gostrey Centre from the Brightwells scheme was taken without consulting councillors and in breach of Public Contracts Regulations legislation.

The group's key argument is that, by removing the Gostrey Centre from the East Street redevelopment as well as agreeing a raft of other concessions to the original plans, Waverley has given Crest a financial advantage not available to other developers bidding for the contract in 2003.

In a briefing note accompanying its letter to the council, the group states: "The original East Street project brief in 2003 identified a number of public amenity assets designated as 'required elements' including the Gostrey Centre, Brightwell Gardens, the bowling green and clubhouse which could not be developed. All developers bid in full knowledge of these mandatory requirements.

"Since the 2003 contract was signed many of these community assets have been systematically eroded and deleted from the contract to the financial advantage of Crest Nicholson.

"Waverley Borough Council must act in accordance with the Public Contracts Regulations when initially awarding a contract or considering undertaking major variations to the East Street contract.

"If a proposed variation 'would change the economic balance of the contract in favour of the contractor in a manner not provided for in the initial contract', then Waverley is obliged to re-tender the contract."

The group's letter draws heavily on the demise of a similar mixed-use redevelopment in Silver Hill, Winchester.

A planning brief for the Silver Hill scheme was issued in 2003 and a development agreement was entered into in 2004.

But between 2004 and 2014, Silver Hill followed the same variable and inconclusive pattern as East Street in Farnham and in 2014, the de-

veloper insisted on and secured permission for yet another major alteration.

However, a city councillor instigated a judicial review claiming a breach of the Public Contracts Regulations and this was determined in January 2015, the judge holding that Winchester City Council had acted unlawfully.

Winchester City Council's leader, deputy leader and head of overview and scrutiny all resigned and after a £66,000 external legal review Winchester city councillors voted on January 29 this year to terminate the development agreement.

Relating the Silver Hill case to Brightwells, the Farnham Interest Group's letter concludes: "We would suggest that individual councillors have a duty and responsibility to consider very carefully, on an individual basis, whether it is appropriate to authorise such a variation, ensuring that they individually each have a full knowledge of the implications and do not permit themselves to exhibit a blatant disregard of the law."

Alan Gavaghan, chairman of the Farnham Society, added: "We have watched patiently as Waverley has ripped up the assets of Farnham one by one to the financial advantage of Crest Nicholson. But the removal of the day centre is the last straw and things are finally about to come to the boil.

"At the public inquiry to determine the compulsory purchase of The Marlborough Head pub in 2013, Waverley officers assured us the scheme was shovel-ready. That was three years ago and the development has never materialised.

"Crest is desperately trying to improve its profitability and Waverley is falling over backwards to try and get the current scheme to work by giving in to everything Crest demands. The old mantra goes that if you find yourself in a hole, stop digging."

To view and comment on Crest's latest application, visit the website www.waverley.gov.uk/planning and search for application reference WA/2016/0268. A deadline for public comments is given as Friday, March 25, with the application set to be determined by the end of May.