

Planning Committee

Thursday, 09 September 2021

- Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Michael Lilley, Councillor Jackie Maclean, Councillor Martyn Warnes
- Apologies:** Councillor Robert Davidson, Councillor Roger Mannion, Councillor Beverley Oxford
- Substitutes:** Councillor Peter Chillingworth (for Councillor Robert Davidson), Councillor Jeremy Hagon (for Councillor Roger Mannion)

872 Site Visits

Councillors Barton, Hagon, Hazell, and Maclean attended a site visit in respect of application 201304, land between 7 and 15 Marlowe Way.

873 Minutes of Previous Meeting

The minutes of the meeting held on 8 July 2021 were confirmed as a correct record.

874 202025 - Land South of Berechurch Hall Road

Councillor Hazell (by reason of the fact that she was a supporter of the Eudo Road Tennis Centre) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Barton (by reason of the fact that she was a supporter of the Eudo Road Tennis Centre) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Warnes declared a pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5), and left the room while the item was being considered by the Committee.

The Committee considered a planning application for the development of 153 dwellings with associated parking, landscaping, open space, drainage and infrastructure and the formation of new access and alternations to existing access onto Berechurch Hall Road.

Eleanor Moss, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of site photographs, aerial views and sketches of the proposed site layout and property design, including street scene illustrations. The Committee heard that the proposal was considered to be sustainable development and had been allocated within the emerging section 2 of the

Local Plan for residential development.

The Committee had before it a report and an amendment sheet in which all information was set out.

Mary Stuttle, a local resident, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in opposition to the application. The Committee heard that Berechurch Hall Road had become extremely busy since the construction of the Solus estate, and there were significant concerns about the impact that a further 153 dwellings would have on the road. Although there was a thirty mile per hour speed limit, there were concerns that this was not obeyed by motorists, and the proposed entrance to the new development was unsuitably located and had the potential to create an accident black spot. Concerns were also raised about the removal of hedgerows to accommodate the development, and the pressure that more houses could place on local services such as doctor surgeries, which were already struggling to meet demand.

Stuart Willshire of Persimon Homes addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support to the application. The Committee heard that the site in question had been identified as an allocated site in the emerging Colchester Local Plan for residential development. The proposal before the Committee was for 153 mixed dwellings consisting of a variety of houses and flats and including 46 affordable homes which met identified affordable housing needs in the borough. Care had been taken with the design of the development to ensure that it was aesthetically appropriate for the area and it incorporated planting elements which would provide biodiversity. The scheme provided a toucan crossing on Berechurch Hall Road, as well as two bus stops and the Highway Authority were supportive of the scheme. A package of planning contributions including healthcare, open space, education and community benefits would be provided via a Section 106 agreement which was to be signed. The attention of the Committee was drawn to the Officer's report, which stated that the benefit of the site convincingly outweighed any adverse impacts.

Councillor Harris attended the meeting and, with the consent of the Chair, addressed the Committee. He was addressing the Committee in his role as a County Councillor for the area, and echoed concerns raised by local residents with regard to the negative impact on road safety on Berechurch Hall Road which could be caused by the proposal. A number of local residents had contacted him about the safety of pedestrians crossing the road, and the Committee was urged to do all that it could to ensure that the development did not go ahead without the necessary infrastructure for road safety and highways improvement.

Members of the committee raised concerns about traffic provisions in the area, although welcomed the introduction of the toucan crossing. An enquiry was made whether a mini roundabout could be introduced at the junction of Maypole Green Road to assist road users exiting the road, as the area was already very busy and likely to become more so. A wish was expressed that the proposed cycle path could be installed to the level requested by the Colchester Cycling Campaign, and badger sets in the area be left undisturbed and supported through the introduction of a wildlife corridor. Concerns were raised about the added strain that additional residents in the

area would place on local doctor surgeries which were already struggling to meet demand, and the location of the proposed scheme in a semi-rural area with few transport links would drive residents to use their cars instead of more sustainable methods of transport.

It was recognised by the Committee that many of the concerns that had been raised about the proposal were concerned with highway issues, and it was noted that a representative from Essex County Council Highways was not in attendance to provide any answers to the questions that had been asked, which would have been very helpful to the Committee.

The Committee sought clarification on the access that would be provided to the development from Berechurch Hall Road, and in particular for pedestrians using the road. It was noted that some of the proposed housing did not seem to have any car parking spaces, which would force vehicles to be parked on the road or pavement in a potentially obstructive manner, and a request was made for more green space to be incorporated into the plan with mature trees being introduced.

In response to the questions and concerns expressed by the Committee, the Senior Planning Officer confirmed that the access to the proposed site would be incorporated with the access point to the adjacent development which had already received planning permission, and both sites would be accessed by this entrance. Consideration had been given to a secondary access point to the site, but the Highway Authority had taken the view that this was not required given the size of the proposed site and the negative impact on road safety that a second access point would have. The Committee heard that badgers were a protected species, and that an ecology report has identified an active set on site with two subsidiary sets, and a further ecological report would be provided prior to the start of construction. It was not proposed to close the main set if this was still active. Car parking had been provided in line with the Council's car parking standards Supplementary Planning Document (SPD), together with cycle parking. The toucan crossing was proposed to be installed before the site was occupied, however, the mini roundabout that had been suggested by the had not been recommended by the Highways Authority. The Senior Planning Officer had met with the Colchester Cycling Campaign and had passed their concerns to the Highway Authority who had taken the view that the improvements requested were not required for a development of this size.

It was explained to the Committee that a condition could be imposed requiring proposed traffic calming measures to be provided to the Planning Authority in writing prior to the development being occupied to ensure that highway safety had been carefully considered.

The Committee repeated its concerns about the volume of traffic that used Berechurch Hall Road and it was suggested that the decision on the application be deferred in order to allow a representative from Essex County Council Highways to attend to provide answers to the questions that had been posed in relation to road safety issues.

RESOLVED (UNANIMOUSLY) that:- the decision on the application be deferred to a future meeting of the Committee in order that a representative from Essex County

Council Highways could attend and provide answers to the questions of the Committee.

875 201686 - Land South of West Bergholt Cricket Club

Councillor Maclean (by reason of the fact that her daughter lives opposite the cricket club) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an outline application for up to 18 dwellings with access to be determined and all other matters reserved. The application was referred to the Planning Committee as it was a major application and would require a S106 agreement to secure planning obligations/contributions. The land had been allocated for the development in the West Bergholt Neighbourhood Plan Policy PP9 under Policies SG8 and SS15 of the Emerging Local Plan. The application site was part of one of the allocated sites (Site B) included in the Neighbourhood Plan as indicated in

Policy PP9 and Map PP9/2. Due to the presence of a badger sett and the requirement for a wildlife buffer zone, the site does not accord entirely with the area as defined by Map PP9/2. However, it was considered that the area proposed was acceptable and that the proposed site was compliant with Policy PP9 of the Neighbourhood Plan. The proposal was therefore acceptable in principle.

The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the outline application be approved subject to legal agreement.

876 201882 - Former Lookers Renault 72-78 Military Road

The Committee considered an application for the demolition of existing car showroom buildings and construction of a sheltered housing facility comprising 44 1 and 2 bedroom apartments and the construction of a residential apartment building comprising 10 1 and 2 bedroom dwellings together with associated access, basement and above ground parking and landscaping. The application was referred to the Committee as it had been called in by Councillor Cope for the reasons set out in the report and in addition to this, the application constituted a major application and was the subject of a S106 legal agreement under the Town and Country Planning Act 1990.

The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

John Miles, Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of site photographs, aerial views and sketches of the proposed site layout and property design, including street scene illustrations and detailed proposed floorplans.

A written representation had been submitted by Catherine Spindler, a local resident, and in opposition to the application, which was read to the Committee by Richard Clifford, Lead Democratic Services Officer. Although the provision of sheltered

accommodation and low income housing was fully supported, concerns were raised about the proposed development itself, including woefully inadequate parking for residents, visitors, medical vehicles and carers. It was also considered that there was insufficient green space for a development likely to house children, and the proposed dwellings were not in keeping with the local area. The Committee were asked to request that the application be re-submitted with amended plans showing additional parking, a more sympathetic design and more green space to include vegetation separating the sheltered accommodation from the apartments.

Councillor Cope attended the meeting, and, with the consent of the Chair, addressed the Committee. The Committee were requested to take note of some objections which had been received, including concerns raised about the lack of local doctor and school provision, and a serious issue that had been raised by Anglia Water in relation to the possibility of flooding, and a request that the applicant compile a feasible drainage strategy to counteract this. Additionally, there appeared to be no storage provided for mobility scooters, which residents would be likely to use, and it was considered that residents using these vehicles would need to park them near to their own property, and in a manner that did not create a hazard to other residents. Last minute changes to the proposal were noted, for example provision of a space for an emergency vehicle to park, although concerns about elements of the design remained, and the Committee heard that the Military Road area deserved to be enhanced.

The Planning Officer responded to the concerns that had been raised and questions that had been asked, and confirmed to the Committee that with regard to parking, there were 45 spaces provided in the basement area of the sheltered housing accommodation, which represented an overprovision against Colchester Borough Council's adopted standards. The overprovision was acceptable because there were good local transport links and the ability to walk into town meant that it was considered that sustainability credentials would not be undermined. With regard to the C2 units, 10 spaces were offered which were not allocated and could be used by residents and visitors. This was below the Council's adopted standards, although Development Policy DP19 did state that a lower standard of parking provision may be acceptable where it can be demonstrated there is a high level of access to services. The National Health Service had been contacted, and they had requested the sum of £23,000 to mitigate against the impact that the proposed development may have, which had been agreed in principle. Anglia Water had confirmed that there was adequate capacity for the waste water flow anticipated and with regard to surface water disposal they had also confirmed that the information submitted with the application was considered acceptable, and a request had been made that an agreed strategy be reflected in the planning approval. Essex County Council had been consulted as the lead local flood authority, and a number of conditions had been recommended in relation to sustainable urban drainage systems. The site was in a flood zone with a low risk of flooding and was considered suitable for all types of development from a flood risk perspective. It was confirmed that there was a large scooter storage facility contained within the facility, and proposed cycle parking was shown on the plans. A landscaping strategy had been submitted which would be the subject of conditions.

In response to a number of questions raised by the Committee, the Planning Officer confirmed that electric vehicle charging points would be provided in accordance with an agreed condition. The Council's archaeological advisor had also been consulted,

and there were no grounds to recommend a potential refusal on the grounds of potential damage to archaeological assets, and a condition was proposed which would cover initial investigatory works and monitoring throughout construction to ensure that any discovered archaeological assets were protected. The Committee were advised that the provision of a defibrillator in a public location could be included as an informative, together with the suggestion that solar panels be installed. Sprinkler systems and other fire safety matters were more appropriately dealt with via Building Regulations, but a consultation response had been received from Essex Fire Service and an informative had been included welcoming the inclusion of sprinklers in the development.

Concerns had been raised by the Committee that there was potential for the development to overlook neighbouring properties, as the proposed development was taller than the existing buildings on the site. The Planning Officer explained that although the height of the existing two storey building was being increased to three storeys, the new building was located nearer to the centre of the site, and it was therefore not considered that there would be a material difference between the imposition of the structures. Furthermore, the Committee were assured that a number of steps had been taken to ensure that overlooking from the sheltered housing block was kept to a minimum, including the use of obscured glazing and oriel windows to ensure that any angles of overlooking were kept away from neighbouring properties.

RESOLVED (UNANIMOUSLY) that the application be approved subject to prior execution of a Section 106 agreement, with additional informatives that the installation of solar panels and a publicly accessible defibrillator be considered.

877

201304 - Land between 7 and 15 Marlowe Way

The Committee considered an application for the demolition of brick boundary wall t Lexden Manor and the construction of three 4-bedroom detached houses, each with internal garage, plus individual private driveways connecting to Marlowe Way with the retention of two Tree Protection Order trees. The application was referred to the Committee as it had been called in by Councillor Lissimore for the reasons set out in the report.

The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of site photographs, aerial views and sketches of the proposed site layout and property design, including street scene illustrations and detailed proposed floorplans. In terms of the unilateral undertaking, whilst the monitoring fee had been paid, the unilateral undertaking had not been finalised. A comment had been received from the Member of Parliament, Will

Quince, requesting that the Committee pay particular attention to the concerns that had been raised by local residents, including the appearance of the proposed properties and their height. Reference was also made to concerns that part of the wall had already been demolished, but it was confirmed to the Committee that removal of part of the wall would not have required planning permission. Since the report had been written, eight further letters of objection had been received which were largely

re-iterating concerns raised previously in respect of the size and design of the proposed properties, parking and overlooking issues.

The Committee were advised that overall this was a very finely balanced scheme which had attracted a lot of objections. The existing area was a very nice mix existing properties and open spaces, which contributed to the overall value of the area. In terms

of the principle of the development, it was within the settlement limits and the National Planning Policy Framework (NPPF) gave a presumption in favour of such sustainable development, and therefore the proposal should be judged on its planning merits.

Although there would be some loss of open space to the front of the proposed properties, there would be a condition applied to ensure that there were no enclosures

on the frontage area, and it was not considered that the loss of open space would be so significant to constitute supporting a refusal on these grounds.

The building of Lexden Manor was a pleasant building but one which was not listed or locally listed, which reduced the level of protection attributed to it. Some views of the manor would be lost if three dwellings were built in front of it, although some additional

sight lines may be opened up between the proposed houses with the removal of the existing wall. It was not considered that the loss of the view of Lexden Manor and its setting was so significant that a refusal could be justified on those grounds, as indicated in the report.

With regard to the form of the development, the proposed design was different to the surrounding area, which was comprised of dwellings with no particular architectural merit but which comprised a pleasant urban context. It was recognised that the proposed development represented good design in terms of a sharp contemporary scheme and with the use of high quality materials could fit in with the character of the area. The designs showed a traditional gable width, coupled with more modern features on the front, and with the use of high quality materials with a variation in the middle dwelling including the roof material meant that the properties could fit into the setting. It was therefore not considered that the proposals should be refused on the grounds of design, scale and form.

The Committee heard that the garden areas did exceed the area required for dwellings

of this nature and scale, and in this regard it was difficult to argue that the proposal represented an over-development of the site. The dwellings were considered far enough away from neighbouring properties to avoid an overbearing impact or loss of light, and although the rear of the proposed dwellings did look over Lexden Manor, obscure glazing conditions would ensure that windows did not overlook any private amenity spaces. It was considered that there were adequate parking spaces on site, with two spaces to the front of the property in addition to the garage. The Committee were advised that a condition could be added to require that the garages be retained as garaging if it wished.

This was a very finely balanced case. It was possible to say that there would be some loss of open space and some loss of the view of Lexden Manor, while on the other

hand this was a sustainable development with design considered acceptable to the character of the area and no highways issues, retained trees and some openness on the site. The recommendation was therefore that the application be approved subject to the finalisation of the unilateral undertaking.

Simon Sorrell, a local resident, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in opposition to the application. The Committee heard that Marlowe Way was situated in an area with its own character, no through traffic and houses of similar design and uniform height on low density plots. Equally important were the open, publicly accessible green spaces, which were vital to the streets' attraction and amenity of local residents and wildlife. The Committee were requested to refuse the application in order to protect the open area of land that was the subject of the application, together with other such areas in the locality. The demolition of the section of the wall that had taken place was described as a flagrant breach of planning control, and concerns were expressed that the objection that had been received from residents had been given insufficient weight on the Officer's report, which seemed to favour the applicant. The Committee heard that the proposal conflicted with policies DP1 and DP15. The proposed scheme design seemed to be in conflict with policy DP1, which required designs that respected the character of the immediate area, and the proposed houses were three floors high and higher than any other dwellings in the area. Marlowe Way enjoyed a particular character which deserved to be recognised, and the Committee were requested to consider the concerns that had been raised by so many, the detrimental impact that the proposal would have on Marlowe Way, and to refuse the application.

By way of a point of clarification, the Chair explained to the Committee that the partial removal of the boundary wall was considered to be permitted development, and as such no planning permission would have been required for these works.

Robert Pomery, a Planning Consultant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support to the application. The Committee heard that both national planning policy, and the Council's own Local Plan supported the use of land in locations which were accessible to schools, shops and other services, and the use of such sites reduced the need for housing growth on greenfield land. The site was described as a 'windfall site', which made an important contribution to the Council's housing supply and it was important that these sites continued to be developed. The site in question had emerged through the simultaneous purchase of Lexden Manor by the applicant, and the area of frontage on Marlowe Way which had afforded the opportunity to combine the two sites. The Committee was referred to the Local Plan Policies, and were informed that the land did not benefit from any protections or other designations, other than the trees subject to Tree Protection Orders, and the land was not public open space. The scheme was compliant with the policies of the Council in every respect and included the provision of solar panels, electric vehicle charging points for every property and ground source heat pumps. Although the proposed buildings had been described as three storey, this

was incorrect as the buildings were two storey with accommodation in the roof space. Officers were content that there were no aspects of the proposal that would sustain or support refusal of planning permission.

Councillor Lissimore attended the meeting, and, with the consent of the Chair, addressed the Committee. The Committee heard that the application had been called in much earlier in the year, and the length of time that been taken to bring it before the

Committee demonstrated that it was not a straightforward application. It was felt that the proposed design of the scheme was out of keeping with the locality, and the fact that the proposals had been described as 'finely balanced' meant that approval was by no means guaranteed. It was suggested that the development was out of character

for the area and was not a good design. The Committee were directed to the street scene illustration that had been shown, which it was suggested did not demonstrate that fact that houses to both the left and right of the proposed development were chalet

style properties which although two storey buildings, were not full height two stories. Similar style properties were commonly located in the area immediately surrounding the proposed scheme, many of which had very low roof lines and restricted roof height.

The proposed development properties had roof heights that were at least 1.8 metres higher than all neighbouring properties, and properties within the estate. The Committee's attention was drawn to the report which stated that the design of the proposed properties differed significantly in design from neighbouring properties. Local residents and Councillors believed that the design went against the Council's own design policies, and was in fact in breach of National Planning Policy Framework section 12 in respect of achieving well designed places, DP1 design and amenity in the Council's development policy, in addition to DP12 and DP14 in that the development did not enhance the site or surroundings. Given the acknowledged and significant design differences from neighbouring properties, the Committee was urged to reject the application on the grounds of design.

Councillor Buston attended the meeting, and, with the consent of the Chair, addressed

the Committee. The Committee heard that there were sufficient material planning considerations, including deviations from the Council's own policies to justify refusing the application. The unique character of the area was characterised by mostly low rise,

mostly chalet bungalows which presented a uniformity of a fundamentally open plan aspect, with open green publicly accessible spaces of key importance to the area.

The

proposal before the Committee was completely at odds with the unique character of the locality, and the design did not respect or reflect the character of the site, its context

or surroundings. Councillor Buston referred to a similar application which had been made in the area which had been refused, as the presumption in favour of sustainable

development did not override the harm that would have been caused to the character of the local area. He suggested that the parallels to be drawn between the two cases

were compelling, and reminded the Committee again that the land currently in question was publicly accessible. He suggested that the application would not make Marlowe Way a better place for its residents, and called for the reinstatement of the wall that had been partially removed from the boundary of the site.

The Senior Planning Officer responded to the concerns that had been raised, and confirmed that the case was finely balanced, with arguments both for and against the scheme. The Committee heard that it was a judgement on whether a more contemporary design was to be favoured in the area, and although it was the opinion of the Senior Planning Officer that the difference in the street scene was not enough to justify a refusal, this was again a matter of judgement. It was confirmed to the Committee again that the partial removal of the wall did not require planning permission. Although there were similarities between this case and the case that Councillor Buston had referenced, there were also significant differences in the impact that building on a green space would have had in each area, and each case was to be determined on its own merits.

The Committee carefully considered the points that had been made, and acknowledged that the application was finely balanced and that accordingly the views of residents should be carefully considered. Concern was expressed about the modern design of the houses, and although some Committee members favoured the style of design in itself, serious reservations were voiced as to whether it was appropriate in the setting. Of particular concern to the Committee was the height of the proposed properties in comparison to the rest of the locality, and the fact that the proposed buildings were very distinctive in design and not at all in keeping with the area.

A Committee member voiced a particular concern in respect of the requirement of obscured glazing, considering that the ability to open windows was of key importance in a family home. Consideration was given to the Lexden Manor overlooking the scheme, although it was acknowledged that the Manor already overlooked existing properties in the area.

A Committee member raised questions about the green space which was the subject of the application, seeking clarification on rights of access over this land, and who had been responsible for maintaining it up until this point. The Committee recognised that although the green space would not be entirely lost, it would be punctuated by tarmac driveways, and the view of the Manor impeded.

The Committee did acknowledge the environmentally sustainable elements of the design, but sought clear assurances from Officers that the scheme was in keeping with the policies that had been referenced by Councillor Lissimore.

By way of response, the Senior Planning Officer confirmed that other design options were possible for the site, and while the design could not be referred to as poor in and

of itself, it was a judgement as to whether it was in keeping with the character of the area. The ownership and maintenance of the land prior to the acquisition by the applicant had not been established, but whether or not the area had been maintained by the highway authority, it was now private property. The Committee heard that it was possible to fit obscure glazing that could be opened above a height of 1.7 meters above the floor level to allow for ventilation. The Senior Planning Officer suggested that if the Committee was minded to refuse the application, then it should be very clear on the grounds for the refusal.

With regard to the queries that Councillor Lissimore had raised, the Committee were advised that it was for it to make a judgement in terms of the design. Both the Essex Design Guide and the National Policy Framework did promote a variety of designs and encouraged contemporary design in some areas, but a judgement was required in terms of context.

There was some discussion in the Committee about the current and present ownership of the land, and Simon Cairns, Development Manager, explained that he believed through anecdotal evidence that the land had previously been owned by the original developer. Although there may be issues of prescriptive rights relating to access of the land, this was not a material planning issue, and would be a civil law matter. The main planning consideration was the character of the proposed development and whether it would result in material harm.

A Committee member asked for clarification from the Officers as the chance of an appeal being successful should the Committee be minded to refuse the application, and the Senior Planning Officer confirmed that in his opinion an appeal could go either way. He did consider it highly unlikely that costs would be awarded against the Council, as he considered that a refusal would not be viewed as unreasonable, but urged the Committee to be clear and careful when determining the specific grounds for refusal, if this was the route that it wished to go down. Any refusal reason would be key to any propose development on the site in the future, as the Committee could indicate that it was opposed to all development on the site and the loss of the green space, or that it would consider a modified proposal in the future. As the land was privately owned, there was a right to apply for development, and as the land was within settlement limits there was a presumption to approve a sustainable development, but the Committee could decide that it did not consider the site was suitable for development at all because of the loss of open space and the setting of Lexden Manor.

A Committee member suggested that they considered that the site would be developed in the future, but that the Committee had the opportunity to try to ensure that any future design was more in keeping with the locality. The Committee

considered whether the Council would be placed at risk of a costs order being made against it should a refusal be appealed the subject of an appeal, and debated whether or not the matter should be deferred to allow the applicant to return with updated designs. The Development Manager did not consider that there was a risk of costs being awarded against the Council as matters that were being considered were within the context of the application, and the Committee had a variety of options before it.

The Committee considered whether or not to refuse the application in principle, but a number of Committee members indicated that they could not support this approach, and it was considered that a proposal more in character with the area would be considered more favourably.

RESOLVED (UNANIMOUSLY) that the application be refused on the basis that the proposed design, scale and form was out of character for the local area.

878 211821 - Open spaces Pondfield Road

The Committee considered an application for the installation of a 26m length of fencing 2.4m in height alongside existing palisade fencing in order to prevent public access to the railway line. The application had been referred to the Committee in the interests of clarity because the applicant was the Borough Council. The application was recommended for approval.

The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved.

879 211958 – The Orchard, Foxes Lane, Eight Ash Green

The Committee considered a request to discharge an existing Section 106 agreement in respect of The Orchard, Foxes Lane, Eight Ash Gren. The Section 106 Agreement applies to planning application COL/98/1681 which granted permission for the erection

of an agricultural workers dwelling. The Section 106 Agreement provided that the dwelling erected under application reference COL/98/1681 shall be occupied only by a stockman (together with his immediate family) employed to supervise the livestock located at Thurgoods Farm. In April 2021, the Council issued a Certificate of Lawful Existing Use (reference 211311) for the occupation of the dwelling by persons who are not solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependents. Subsequently, in July 2021, the Council granted permission for the removal of condition 5 of application COL/98/1681 (reference 210547) which restricted the occupation of the dwelling to persons who are solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependents. Application COL/98/1681 is therefore no longer the subject of any occupancy restrictions. The Section 106 agreement is therefore considered no longer relevant.

The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the Section 106 Agreement be discharged.