



# Appeal Decisions

Site visit made on 24 October 2023

**by Sarah Dyer BA BTP MRTPI MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 November 2023**

**Appeal A Ref: APP/W3520/C/23/3319406**

**Appeal B Ref: APP/W3520/C/23/3319407**

**Land South of Barrells Road, Thurston, Suffolk IP31 3SF**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Dover Farm Developments Ltd and Appeal B is made by Mr P Smith against an enforcement notice issued by Mid Suffolk District Council.
- The notice was issued on 6 March 2023.
- The breach of planning control as alleged in the notice is non-compliance with approved plans involving; the failure to provide the footpath as per drawing "Proposed 1234/01D"; failure to provide the visibility splay for the access road; failure to comply with the approved landscaping scheme.
- The requirements of the notice are set out in Annex A.
- The period for compliance with the requirements is by 31 October 2023.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2) (c) and (f) of the Town and Country Planning Act 1990 as amended.

## Decisions

### Appeal A

1. It is directed that the enforcement notice is corrected by:

- The deletion of section 2 and its substitution by:

On 16 April 2020 outline planning permission was granted under Council reference DC/19/05114 for the erection of 9 no. self-build dwellings, at Land to the South of Barrell's Road, Thurston, subject to conditions.

Condition 4 states as follows:

A footpath within the site shall be constructed in accordance with drawing no. 1234/02 received on 30th March 2020. The footpath shall be carried out in its entirety prior to the first occupation on the site and thereafter retained in this form.

The reason for condition 4 is as follows:

To ensure that satisfactory access is provided for the safety of residents and the public.

Condition 5 states as follows:

Before the access is first used visibility splays shall be provided as shown on Drawing No.DM01 with an X dimension of 2.4m and a Y dimension of 43m and

thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted, or permitted to grow within the areas of the visibility splays.

The reason for condition 5 is as follows:

To ensure vehicles exiting the drive would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

On 31 July 2020 reserved matters were approved under Council reference DC/20/02211 for Submission of details (Reserved Matters in part) following outline Approval DC/19/05114 of appearance, landscaping, layout, and scale for the erection of 9 no self-build dwellings. Phase 1 Roadway and Footpath.

Condition 2 requires the development to be carried out in accordance with the approved plans which include Plan – Proposed 1234/01D – Received 05/06/2020.

Condition 3 requires the submission and approval of a landscaping scheme and condition 4 sets out the timescale for the implementation of the landscaping scheme.

On 5 January 2021 the Council discharged condition 3 under reference DC/20/05439 and approved the details shown on drawing no. 1234-13.

On 3 August 2020 reserved matters were approved under Council reference DC/20/01981 for submission of details (Reserved Matters in part) following outline Approval DC/19/05114 of appearance, landscaping, layout, and scale for the erection of 9 no. self-build dwellings for Phase 2 Plot 1.

Condition 2 requires the development to be carried out in accordance with the approved plans which include Proposed Plans and Elevations 1234/02A - Received 20/05/2020.

Condition 5 requires the submission and approval of a landscaping scheme and condition 6 sets out the timescale of the implementation of the landscaping scheme.

On 5 January 2021 the Council discharged condition 5 under reference DC/20/05440 and approved the details shown on drawing no. 1234-13.

It appears to the Council that conditions 4 and 5 of outline planning permission reference DC/19/05114 and the plans and details approved under the reserved matters have not been complied with because the footpath shown on Plans – Proposed 1234/01D – Received 05/06/2020 has not been provided, the visibility splay has not been provided and the landscaping associated with the provision of the roadway and footpath and on Plot 1 (now known as No. 1 Rooks Mead) has not been carried out in accordance with drawing no. 1234-13.

It also appears to the Council that the breach of planning control has occurred within the last ten years.

2. It is further directed that the notice is varied in section 5 by the deletion of the words 'The requirements detailed in Section 4 of this Notice must be complied with by 31<sup>st</sup> October 2023' and their substitution with the words 'The requirements detailed in Section 4 of this Notice must be complied with within 8 months from the date the notice takes effect'.
3. Appeal A is allowed in so far as it relates to condition no. 5 in respect of visibility splays and deemed planning permission is granted. Therefore, in accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, condition no. 5 attached to outline planning permission dated 16 April 2020, Ref. DC/19/05114 is discharged and the following new condition is substituted:

Within six months of the date of this decision visibility splays shall be provided as shown on Drawing No.DM01 with an X dimension of 2m, a Y1 dimension of 21m and a Y2 dimension of 43m and thereafter retained in the specified form. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted, or permitted to grow within the areas of the visibility splays.

4. Outline planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for erection of 9 no. self-build dwellings without complying with condition no. 5 but subject to the other conditions attached to that permission and the following new condition:

Within six months of the date of this decision visibility splays shall be provided as shown on Drawing No.DM01 with an X dimension of 2m, a Y1 dimension of 21m and a Y2 dimension of 43m and thereafter retained in the specified form. Notwithstanding the provisions of Schedule 2, Part 2 Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted, or permitted to grow within the areas of the visibility splays.

5. Subject to the corrections and variation Appeal A is dismissed, and the enforcement notice is upheld in so far as it relates to the provision of the footpath and landscaping and the application deemed to have been made under section 177(5) of the 1990 Act as it relates to condition no. 4 and the plans and details approved under reserved matters in respect of the footpath and landscaping is refused.

### **Appeal B**

6. It is directed that the notice is corrected and varied as set out above. Subject to those corrections and that variation Appeal B is dismissed and the enforcement notice is upheld.

### **Preliminary Matters**

7. The Council has advised that the Inspector's report on the examination of the Babergh and Mid Suffolk Joint Local Plan (the JLP) has been published and that the Inspector has concluded that subject to modification the JLP is sound. It

has provided copies of the relevant policies and given the advanced stage of the JLP I can attribute significant weight to them. However, the policies do not attract full weight because the JLP has not yet been adopted.

8. The appellants have had the chance to comment on the relevance of the policies to the appeals. The appellants note that the JLP has not yet been adopted by the Council and there is no guarantee that it will be.
9. The appellants have submitted a letter from Suffolk County Council dated 30 October 2023 (the SCC letter) which contains information regarding visibility splays at the site. I have asked the Council for comments on the relevance of the information to the appeals and its view on whether, if it is accepted as late evidence, this would give rise to injustice.
10. The Council's view is that the SCC letter is prejudicial to its case and may give rise to injustice. However, the information in the SCC letter is relevant to the case as it addresses one of the main issues in the appeal on ground (a) and it could not have been submitted in accordance with the timetable for the appeals. Given that the Council has been made aware of its contents and has had the opportunity to provide its views, there would be no injustice were I to have regard to it.
11. The appeal site includes No. 3 Rooks Mead. An enforcement notice has been served in respect of operational development at this property and this is the subject of a separate appeal which I am also dealing with (Appeal Ref. APP/W3520/C/23/3323876) (the 3 Rooks Mead appeal).
12. Appeal A and Appeal B have been submitted by the developer and a resident of Plot 1 (now known as No. 1 Rooks Mead) respectively. The resident has made separate submissions, and these include criticism of the developer. However, this is a matter between the resident and the developer, and my decisions have been made on the basis of the submissions as they are material to the matters before me.

### **The Notice**

13. The notice has been issued under Section 171A(1)(b) of the Act which relates to a breach of planning control amounting to the failure to comply with any condition or limitation subject to which planning permission has been granted.
14. I have a duty to get the notice in order and the power to make corrections on the basis that such corrections do not give rise to injustice. In this case I do not find that the allegation fully reflects the nature of the breach of planning control, and it is not clear that the breach relates to a breach of condition.
15. A notice must tell the recipient fairly what they have done wrong and what they must do to remedy it. In order to do that the allegation should refer to the planning permission which has been granted, the relevant condition/s and in what way the condition/s have not been complied with.
16. The reasons for serving the notice refer to the outline planning permission and the approval of reserved matters and the conditions which are alleged to have been breached are identified. The ways in which those conditions have been breached are set out in the reasons for serving the notice. The requirements refer to the relevant approved plans under the outline planning permission and the approval of reserved matters.

17. Read as a whole the notice contains all of the information needed by the recipients so that they know what they have done wrong. Consequently, I can correct the notice to identify the breach as relating to a breach of conditions without injustice to the appellants. I shall refer to the relevant conditions on the outline planning permission and approvals of reserved matters in the context of the breach of conditions.
18. The notice also does not set out an immunity period. In the case of a breach of condition the relevant immunity period is ten years under Section 171B(3) of the Act. In this case the conditions which are the subject of the notice were attached to a planning permission granted in April 2020. Therefore, the notice was served well within the immunity period and there is no potential for an appeal on ground (d), that the breach is immune from enforcement action. I can correct the notice to refer to the relevant immunity period without causing injustice to the appellants or the Council.

### **Ground (c)**

19. An appeal on ground (c) is on the basis that the matters alleged in the notice do not constitute a breach of planning control. This is a legal ground of appeal, and the onus of proof lies with the appellants. The evidence must be sufficiently precise and unambiguous, and the standard of proof is the balance of probabilities.
20. In this case in order to achieve success on ground (c) the appellants must show that what is alleged complies with the terms and conditions of a planning permission.
21. The appellants question the validity of the conditions which are the subject of the notice. They argue that, in respect of the footpath, condition 4 of outline planning permission reference DC/19/05114 (the outline planning permission) is unenforceable because it refers to a drawing which does not exist.
22. Condition 4 of the outline planning permission refers to drawing no. 1234/02. This drawing is not listed as an approved drawing but the Defined Red Line Plan Drg No. 1234-01A and the Footpath plan 1234-02 are listed. Furthermore as part of the approval of reserved matters the footpath is shown on drawing no. 1234-01D. Taken together, I find that the approved plans show the footpath and, in this context, it has not been shown that the provision of the footpath is unenforceable.
23. Furthermore and notwithstanding the appellants view that footways would not normally be considered landscaping, the submission to discharge the landscaping of the development in respect of the roadway and footpath included the footpath. This establishes that the footpath is part of the development as approved.
24. The appellants also refer to condition 2 of the reserved matters approval under reference DC/20/02211 (the roadway and footpath reserved matters) and state that this condition does not include any timescale for the implementation of the works. They say that the failure of the appellants to construct the footpath has not resulted in a breach of condition 2.
25. Condition 2 relates to the approved plans. Conditions 3 and 4 secure the landscaping and I regard the footpath to be part and parcel of the landscaping works.

26. Condition 4 sets out that the landscaping, including hard landscaping, must be implemented during the first planting and seeding season following commencement of the development or such other phasing arrangement up to the first use or first occupation of the development. I regard this as setting out the implementation period for the footpath.
27. Drawing all of these points together I find that both condition 4 of the outline planning permission and condition 2 of the roadway and footpath reserved matters are enforceable. On this basis the conditions have not been shown to be invalid and it follows that a breach of planning control can arise from any failure to comply with them.
28. For the reasons set out above the appeal on ground (c) does not succeed.

## **Ground (a) and the Deemed Planning Application (DPA)**

### **Main Issues**

29. The DPA arising on ground (a) is to carry out the development subject to the planning permission without complying with the conditions being enforced against. Thus it is akin to an application made under section 73A(2)(c) of the Act and it is not open to me to review any of the other conditions on the original planning permission as doing so would widen the scope of the notice.
30. On the basis of the Council's reasons for issuing the notice and the reasons for the conditions which are the subject of the notice the main issues are:
- Whether the development makes adequate provision for the safe passage of pedestrians on Barrells Road
  - The effect of the development on the use of the access to the site with particular regard to the safety of users of Barrells Road.
  - The effect of the development on the character and appearance of the site and the surrounding area with particular regard to landscaping.

### **Reasons**

#### **Safe passage of pedestrians**

31. As part of the approved layout plan a footpath is shown to be provided running roughly parallel to the eastern arm of Barrells Road. In part the footpath would run alongside the access road serving six of the houses on the development and the remainder would run adjacent to the boundaries of two houses including No. 1 Rooks Mead. There is no pavement on this part of Barrells Road and the footpath would provide an alternative to walking on the road.
32. The footpath is secured as part of the development through planning conditions and the reason for condition 4 on the outline planning permission refers to the footpath being necessary for the safety of the residents and the public. Furthermore, in its statement the Council says that the footpath is necessary to make the development acceptable in its location.
33. The development is on the edge of Thurston and in order to access facilities such as the church, recreation ground and shops pedestrians must walk along Barrells Road and Stoney Lane neither of which have pavements. However, Stoney Lane has frontage development, where it is reasonable to anticipate

vehicle movements, and it is within the 30mph speed limit zone. Thus it has a different character to Barrells Road which is more conducive to pedestrian movements.

34. The approved footpath would provide an off-road alternative for pedestrians walking along Barrells Road and particularly for the residents of the development.
35. The appellants argue that the provision of the footpath would necessitate the removal and destruction of a well-established hedgerow. There is a substantial hedgerow fronting Barrells Road which makes an important contribution to its character. However, the provision of the footpath would not require the complete removal of the hedge and the majority of it would remain. Any removal, for example close to the junction with Stoney Lane is justified by the benefits to pedestrians using the route.
36. The appellants also raise concerns about the safety of the egress of the footpath adjacent to the junction. However, the approved plans show the footpath within the visibility splay for the access serving part of the development. In such a position pedestrians could safely check for traffic before crossing the junction.
37. New houses have been built further along Burrells Road and the appellants point out that the Council accepted that the occupants of them would need to walk along the road from them. The Council says that it would have been unreasonable to impose a requirement for a footpath on a permission for a single dwelling. Notwithstanding those decisions, the footpath provision as part of the appeal scheme is justified in its own right.
38. The appellants point to the lack of footpaths on Barrells Road or Stoney Lane which results in residents having to walk along those roads and to statistics which demonstrate that there have been no recorded traffic accidents on those roads in the last 23 years. However, the lack of any data to demonstrate that accidents have occurred does not necessarily mean that the use of those roads by pedestrians is inherently safe. Furthermore, planning policy aims to achieve high quality development, safe places and encourage walking to local facilities.
39. The planning history of the site includes an outline planning permission (Council Ref. DC/17/03268) granted in April 2019. The appellants point out that there is no condition on this consent which requires the provision of a footpath. However, the developers of the site chose not to implement that permission and the subsequent permission includes the requirement to provide the footpath. It will be seen from the foregoing that I find this requirement is justified.
40. Drawing all these points together, the carrying out of the development without the provision of the footpath, which is secured by condition 4 of the outline planning permission, does not provide adequate provision for the safe passage of pedestrians on Barrells Road. Consequently the development is contrary to Policy T10 of the Mid Suffolk Local Plan (1998) (the Local Plan) which requires that regard be had to whether the needs of pedestrians have been met.
- 41.** I conclude that condition 4 of the outline planning permission is necessary and reasonable having regard to the provision of adequate safe passage of pedestrians on Barrells Road.

### **Safe access to/from the site**

42. There are two accesses serving the development, one off the eastern section of Burrells Road and one off the southern section. There is no dispute between the parties that the appeal relates only to the latter.
43. The requirements of the notice only relate to works within Plot 1. These effect the visibility splay to the north, towards the junction of Barrells Road and Stoney Lane. The visibility splay to the south is associated with Plot 2 which is the subject of the 3 Rooks Mead appeal. For that reason, notwithstanding the appellants' references to the southern visibility splay in their submissions, my assessment in this appeal relates only to the northern visibility splay.
44. Condition 5 attached to the outline planning permission requires that visibility splays are provided before the access is brought into use. The appellants accept that the northern visibility splay which is described in condition 5 has not been provided. It is their view, based on a traffic statement by G H Bullard and Associates LLP dated 24 March 2023 (the Traffic Statement), that it is unnecessary to provide the visibility splay to the extent required by condition 5 and that a reduced size of splay is justified, which they say could be secured through a variation of condition 5.
45. The appellants argue, on the basis of the assessment of traffic speeds and the application of standards, that a visibility splay to the north of 2m x 21m may be acceptable. They request that condition 5 is varied to relate to these dimensions for the northern visibility splay.
46. In its final comments the Council refers to the Highway Authority assessing the access and concluding that the required visibility splay is 43m. The measurement for the visibility splay to the right (northwards), which is described as the 'current measurement', is quoted as 2.4m x 21m. However, the SCC letter submitted by the appellants, which postdates this assessment, confirms that a visibility splay of 2m x 21m is acceptable.
47. Given that the Council's submissions are drawn from advice provided to it by the Highway Authority it is reasonable to regard the SCC letter as being an update to the Council's position. The dimensions of a northern visibility splay which the appellants say would be adequate to serve the development are the same as those accepted by the Highway Authority.
48. On the basis of the information now before me it has been demonstrated that, in comparison with the visibility splay required by condition 5, a reduced visibility splay to the north of 2m x 21m would not compromise the safety of the users of Barrells Road. The variation of condition 5 to that effect would therefore be in accordance with Policy T10 of the Local Plan which requires that regard be had to the provision of safe access to and egress from the site when considering planning applications for development.

### **Character and appearance**

49. The site is on the edge of Thurston and in both directions Barrells Road provides routes into the countryside surrounding the village. Both Stoney Lane and the eastern section of Barrells Road have development on one side of the road only and there are large fields on the opposite side. Roadside mixed hedges of native species are a strong characteristic of the area surrounding the site.

50. The approved landscaping scheme shows the removal of part of an existing hedge along the eastern arm of Barrells Road and the provision of the footpath which I have referred to above. Between the retained hedge and the access onto the southern arm of Barrells Road the approved landscaping on Plot 1 takes the form of a close boarded fence with new native hedging to the back edge of the dwelling and a 1 metre high picket fence to the side of the dwelling. The site includes land between the boundary of Plot 1 and the edge of the carriageway, but this area is not shown as to be landscaped on the approved plans.
51. The development has not been laid out in accordance with the approved landscape scheme. A close boarded fence has been constructed along the edge of the boundary with Barrells Road. However, this fence extends to align with the front of the dwelling and returns along the frontage to the access. The picket fence has not been erected and the grassed area to the side and front of the house has not been provided. Two trees which are shown on the plans have not been planted.
52. Hedge plants have been planted on the roadside face of the close boarded fence; however these are not one of the species or mix shown for a native hedge on the approved plans. Shingles and stones have been laid between the close boarded fence/hedge and the edge of Barrells Road and between the dwelling and the access road.
53. The landscaping which has been carried out does not reflect the landscape character of the surrounding area. In particular the hedge planting, whilst upon maturity would screen the close boarded fencing as originally intended, appears at odds with the mixed native hedge planting which runs along Barrells Road in both directions. The shingle and stones are visually discordant with the grassed verges on Barrells Road and Stoney Lane and when compared with the appellants' photographs of the previous condition of this boundary. As such these features appear incongruous in the street scene.
54. Although close boarded fencing is permitted around the rear garden of Plot 1, albeit on a different alignment, the fencing which has been erected is much more extensive. It is visible from Barrells Road and the section of fencing which aligns with the front of the house, in particular, is in stark contrast to the hedgerows forming the boundaries of dwellings in the wider area. Furthermore the submissions by the appellants show that in order to achieve the necessary visibility splay to the north at least part of the hedge would have to be removed which would further expose the fence to views from Barrells Road.
55. The appellants argue that the close boarded fencing is necessary for security as a picket fence would give open access to the rear of the house. In part this situation arises from the position in which the boundary fencing has been erected which does not align with that shown on the approved plans for Plot 1. As approved the close boarded fence aligns with the rear corner of the house and surrounds the rear garden. The approved picket fence around the side and front garden is appropriate given that such a space would not normally have the same level of privacy and security as a rear garden.
56. Notwithstanding the deviation from the approved plans, the extent of close boarded fencing exceeds what is necessary to provide an appropriate level of security and privacy to the rear garden space.

57. In respect of the use of the shingle and the stones, the appellants say that this is necessary in order for them to be able to prevent car parking and to maintain the condition of the land which would otherwise become overgrown. There is no information before me to suggest that car parking took place on the land before the shingle was laid nor that the stones are the only solution should this problem have arisen. With respect to maintenance there is no evidence to demonstrate that the maintenance of a grassed verge of limited extent would be difficult for either the appellants to carry out or for them to employ someone to carry out for them. In terms of maintenance of the carriageway and any highway land, this is a matter for the Highway Authority.
58. The appellants say that they chose to plant a laurel hedge because they had seen similar planting in the area, and they consider that it would support wildlife. During my site visit I observed that there are other properties in Barrells Road which have laurel hedging. Nevertheless mixed native hedging is the predominant feature of hedgerows in the area and in particular around the development and for that reason the laurel hedge is out of keeping with the landscape character of the area. There is no evidence before me to demonstrate that a laurel hedge would be more beneficial for wildlife than a native hedge.
59. The appellants have submitted a new landscaping scheme for Plot 1. In some respects the proposed landscaping scheme addresses my concerns about the impact of the development on the character and appearance of the site and the surrounding area. For example the replacement of the shingle and stones with a grass verge would be an improvement over the current situation and would be compatible with the character of Barrells Road and Stoney Lane.
60. However, the retention of close boarded fencing to the side and in alignment with the front of the dwelling on Plot 1, albeit of lower height, and the lack of native hedging to the roadside boundary, would result in a continuation of harm to the character and appearance of the area. Furthermore the provision of a one metre high close boarded fence alongside the road frontage is not an appropriate solution in terms of providing safety and privacy within the rear garden of Plot 1. As such the new landscape plan has not been shown to be an acceptable or viable alternative to full compliance with the requirements of the notice.
61. Drawing all of these points together I find that the landscaping which has been carried out has a harmful effect on the character and appearance of the site and the surrounding area. Therefore the development is not in accordance with Policies GP1 and H13 of the Local Plan which require that proposals should maintain and enhance the character and appearance of their surroundings and that in new housing development landscape features are retained and enhanced.
62. The policies from the JLP which have been provided to me relate to the enhancement and management of the environment, environmental protection, and new agricultural/rural buildings in the countryside. As such they are not relevant to this main issue.

### **Conclusions on ground (a) and the DPA**

63. For the reasons given above I conclude the appeal on ground (a) succeeds in part and in so far as it relates to the breach of condition 5 of outline planning

permission reference DC/19/05114. However, in respect of the breaches of condition 4 of the outline planning permission and in relation to the plans and details approved under the reserved matters the appeal on ground (a) does not succeed.

64. The provision of adequate visibility splays remains necessary to ensure that the development does not give rise to conditions which may harm the safety of the users of Barrells Road. For that reason it is necessary to substitute a new condition for condition 5.
65. Under the powers granted by s177(1)(a) and s177(5) of the Act I shall grant planning permission for the operations previously permitted without complying with condition 5 but subject to a new condition to secure the northern visibility splay as described above.
66. In order to ensure consistency it is also necessary for me to discharge condition 5 under s177(b) of the Act and to impose the new condition on the original planning permission under s177(4).
67. Under section 180 of the Act planning permission overrides the notice to the extent that the planning permission authorises what is being enforced against. In this case the planning permission allows formation of an alternative visibility splay to that required under condition no. 5 of planning permission reference DC/19/05114 as granted on 16 April 2020.

### **Ground (f)**

68. An appeal on ground (f) is on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such breach.
69. In the light of my conclusions on ground (a) and the DPA the appellants' submissions in respect of the visibility splay have been addressed above. I have also dealt with the new landscape scheme as an obvious alternative as part of my consideration of ground (a). Thus I have already considered the arguments made by the appellants in relation to the requirements of the notice.
70. For the reasons set out above it has not been shown that the requirements of the notice exceed what is necessary to remedy the breach of planning control. Therefore, the appeals do not succeed on ground (f).

### **Variation of the compliance period**

71. The compliance period set out in the notice is by reference to a date. The notice was issued on 6 March 2023 and the compliance date is given as 31 October 2023. This equates to approximately 8 months, rounded up. As the notice has been upheld, I shall vary the compliance period to 8 months which reflects the original intentions of the Council.

*Sarah Dyer*

INSPECTOR

## **Annex A**

### **The requirements of the notice**

- a. Construct the footpath as per Drawing "Proposed" ref. 1234/01D approved under DC/20/02211, and Drawing "Landscaping Plan" ref. 1234-13 approved under DC/20/05439;
- b. Demolish the close-boarded fencing along the north-western boundary of the garden of Plot 1 and re-erect in accordance with Drawing "Landscaping Plan" ref. 1234-13 approved under DC/20/05439, and provide the visibility splay as required by Condition 5 of DC/19/05114;
- c. Demolish the close-boarded fencing along the southern and western boundaries of the garden of Plot 1 and replace with picket fencing in accordance with Drawing "Landscaping Plan" ref. 1234-13 approved under DC/20/05439, and provide the visibility splay as required by Condition 5 of DC/19/05114;
- d. Remove the stones from the front (southern) and side (western) areas of Plot 1 and replace with grass in accordance with Drawing "Landscaping Plan" ref. 1234-13 approved under DC/20/05439, to include provision of the trees/shrubs as indicated;
- e. Remove the stones from the area north-west of the boundary of Plot 1 and return the land and highway verge to the condition it was in prior to the development taking place;
- f. Remove the laurel hedging planted along the outside edge of the incorrectly positioned close-boarded fencing at the north-western boundary of Plot 1 and replace with native hedging in accordance with Drawing "Landscaping Plan" ref. 1234-13 approved under DC/20/05439, and provide the visibility splay as required by Condition 5 of DC/19/05114;