

REPORT OF: ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL AND REGULATORY SERVICES

TO: BARROWFORD AND WESTERN PARISHES COMMITTEE

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Contact Details: Neil Watson
Tel. No: 01282 661706
E-mail: neil.watson@pendle.gov.uk

UNAUTHORISED DEVELOPMENT – REMOVAL AND ERECTION OF A FENCE AT 1 FIR TREES GROVE, HIGHAM

PURPOSE OF REPORT

To inform Committee of the background to the development and to agree the course of action.

RECOMMENDATIONS

- 1 That Committee note the actions that have been taken to identify the breach.
- 2 That Committee agree that the breach has been identified and dealt with as far as is practically possible.
- 3 That no further action is taken on the matter.

REASONS FOR RECOMMENDATIONS

- 1 There is no other reasonable course of action that could be taken to identify any breach.
- 2 All reasonable steps have been taken to identify the breach.
- 3 That the matter has been progressed as far as is necessary and reasonable bearing in mind the works including the removal of the vegetation have improved visibility.

BACKGROUND

- 1 The Council received a complaint that fencing had been removed and replaced at 1 Fir Trees. That was received in September 2024. The site was visited on 26th September 2024 including taking photographs of the work and measurements.
- 2 Attached below are a series of images that are taken from Google. These date back to the first available images from 2009. Images 1-4 show the fence and vegetation that was present over the period 2009 to 2022. The images show that the fence was to an increasing amount, covered with vegetation. This vegetation covered the land behind and in front of the fence. The images show that there was no visibility over the fence and on the by-pass over this period. The vegetation precluded any reasonable visibility from the access over this period.
- 3 Photograph 5 is taken in 2023. This shows that the vegetation had been cut back revealing the fence before it was removed and replaced. The removal of the vegetation, which can be

replaced at any time, made a difference to visibility at the access. Prior to that being cut back visibility was substantially worse than post the removal of that vegetation and the replacement of the fence.

- 4 There are no measurements available of the fence prior to it being replaced. No one is able to say how tall it was or where it was precisely. All evidence in that regard is anecdotal.
- 5 The only reference points are the images that are available from Google and the speed camera.
- 6 In looking at the height of the fence prior to its removal, a reference point needed to be established. It was established that Google images are taken from a height of 2.5m above ground level. Staff went to site and replicated the height from which the Google images were taken and referenced the fence height set against the photograph on Google. These were then set against the height of the new fence to establish, as far as is practically possible from the data source the comparative heights of the two fences.
- 7 The site visits include sitting in a vehicle (tractor used by one of the complainants) and taking time to try and understand the dimensions from their perspective.
- 8 The measurements taken have been taken using the best practical methods to establish before and after replacement heights. The fence that is in situ, as far as is practical to measure, is no higher than the fence it replaced.
- 9 Members will also need to take into account that the fence and land as they currently stand are significant improvements in terms of visibility to the visibility available prior to the vegetation being removed by the current owner. The work they have undertaken improves the ability of users of the access to see from the junction, albeit it that the vegetation can be grown back at any time as it is not development.
- 10 Were Committee to determine that further enforcement action was required, that would need to be based on evidence as the onus is on the Council to prove its case. Committee would need to instruct Officers as to what the evidence is and how it is to be produced. Anecdotal commentary from a user of the access is not evidence and would not stand up to examination in an Appeal. The measurements taken are the best practical evidence that is available.
- 11 There is clearly no justification to take this matter further as all reasonable steps have been taken to identify the height of the land and ensure that the fence is no higher than it was previously. Members need also to take into account that the removal of the vegetation in itself considerably improves the visibility from the access.

IMPLICATIONS

Policy: None arising directly from this report.

Financial: None arising directly from this report.

Legal: None arising directly from this report.

Risk Management: None arising directly from this report.

Health and Safety: None arising directly from this report.

Sustainability: None arising directly from this report.

Community Safety: None arising directly from this report.

Equality and Diversity: None arising directly from this report.

APPENDICES

1 May 2009



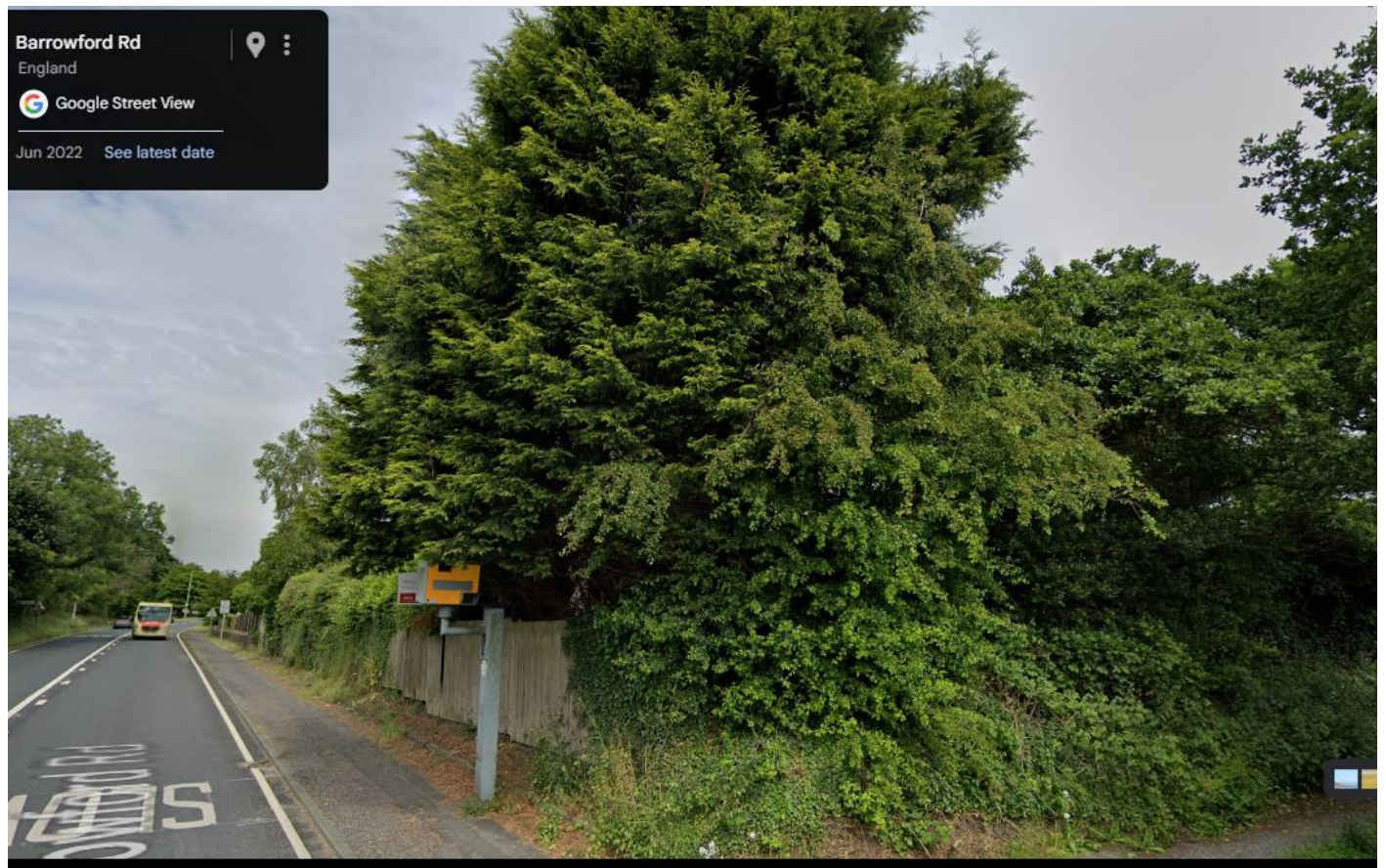
2 June 2011



3 June 2021



4 June 2022



5 September 2023

