

Kirklees Council - Planning
Investment and Regeneration Service
PO Box B93, Civic Centre 3,
Off Market Street,
Huddersfield HD1 2JR
30 November 2020

Dear Mr Bearcroft,

Objection to Planning Application 2020/93467, 402 Birkby Road, Huddersfield

In my initial objection to this planning application, I stated that for planning purposes, the private lane is a highway and that any fence, gate and gateposts should not exceed 1 metre in height above ground level without planning permission. I note from the portal today that you have received comprehensive evidence to support this assumption, so I will not repeat it but will add to it.

My understanding is that there are 3 options for a road or footpath:

- One maintainable at the public expense – adopted
- One maintainable at private expense – unadopted
- A private street/footway or footpath

The third option is where the public has no rights to use the land unless permission is given by the owner. In other words it enjoys the same status as a path or driveway at your home. The first two are the same with the difference being as to who maintains it. The ownership of the land could be any number of public or private bodies. The ownership does not dictate what is or what isn't a highway. A road or footpath can be 'maintained by residents' it may also have signs that say 'private road' – the sign alone doesn't mean that it is a private street.

A private street or footpath must be gated to prevent traffic at least one day a year, in reality they are gated most of the time. A highway can only be gated to control livestock, but this must not be locked.

Often people refer to a 'private road' as somewhere that is not a highway. A private road is a highway unless it is gated and is truly a private piece of land owned by one or more parties.

The lane in question, has 6 properties along it, all of whose residents use it to access Birkby Road. It is owned by 2 of these residents and there are signs saying that it is private property and that there should be no parking or obstructing of the lane. The signs were put up because the lane was constantly being blocked for extended periods of time by delivery vehicles to 402 while the 2 extensions were being built. It

is not gated, so the public do have access to pass and repass as they need to. However, as it is a dead end, those who use it will in the main have a reason to go to the properties to visit or deliver goods or post.

Since it is a highway, any fence, gate or gatepost can only be a maximum of 1 metre above ground level without planning permission. At 2 metres, 2.25 metres and 2.5 metres respectively, the fence, gate and gateposts exceed the limit considerably. The effect of this is an overbearing appearance along the lane which is particularly exacerbated by the massive gate; not only its height, but also its length which at 7 metres is not suitable or necessary for a domestic property. It is the width of 3 cars.

In 2003, planning permission was sought to build what is now 402, but was refused because in Kirklees, a private road could serve no more than 5 properties. 402 would have been the sixth. In approving a second application to build a dwelling in 2004, no mention was made of the 5 dwelling rule, but among others, the following condition was put in place:

(3) Notwithstanding the submitted site plan: -

(a) before the development is occupied, the access improvements shown on drawing No.2827-07 Rev A attached to the outline approval 03/60/94421/W2 shall be provided and the sight lines shown shall be cleared of all obstructions to visibility exceeding 1.0m in height above the adjacent carriageway. (This includes sightlines at the junction of the access road with Birkby Road and the junction of the house drive with the access road).

The reason for this condition was given as being:

In the interests of the free and safe use of the highway.

By insisting that the sight lines from the driveway of 402, along the lane were cleared of obstruction to visibility to a height of 1 metre above the carriageway **and** that it was to be implemented *in the interests of the free and safe use of the highway*, it is clear that in 2004, the private lane was considered by the Planning Department to be a highway. It is therefore still a highway and restrictions on permitted development rights apply.

This is a really important consideration which also affects Planning Application 2020/92400 for a detached double garage. If that were to be approved, then its concealment from view from the lane and from the eastern approach to the lane entrance along Birkby Road is by a 2 metre high fence that has been erected without planning permission.

Yours sincerely,