Incorrectly quoted widths/encroachment/negative impact on amenity

Plan showing Potential Road Widening, indicates the intention to piggyback proposals for access to a second development potentially leading to 400%-500% increase in residential traffic on Bierley Marsh.

Kirklees confirmed Bierley Marsh to be a Private Street (letter 19:06:91). It is essentially a single track with legally recorded public rights of way; Public Footpaths (SPE/6/20 & SPE/6/30) quoted in Kirklees Definitive Plan as no more than 10ft wide.

Road works will affect SPE6/20 from Cross Gables to South View Road, over which 4 properties have vehicular access rights.

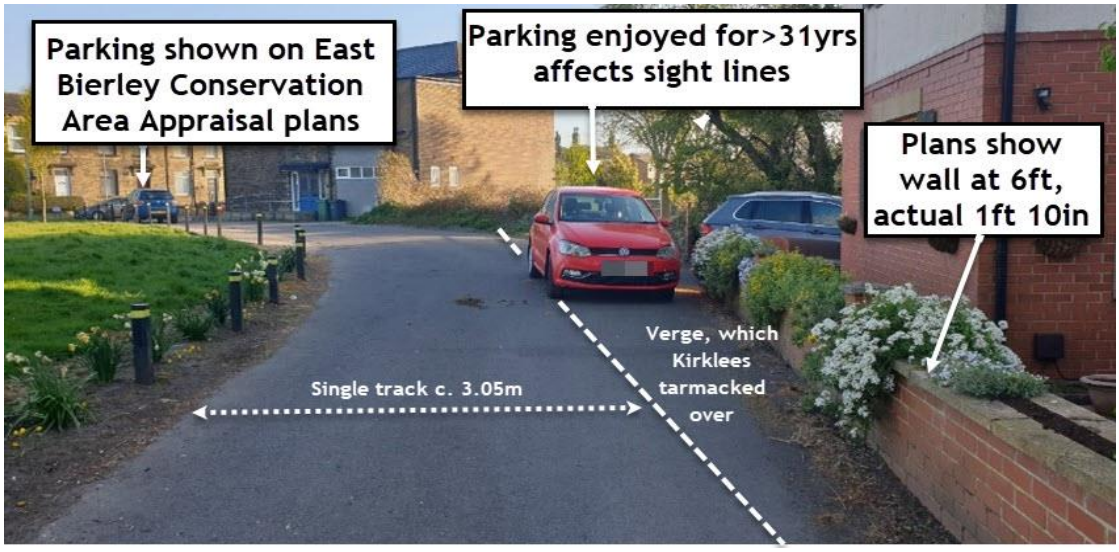
Proposals are unclear about road Adoption.

As a Private Street, fronting properties are responsible for maintenance up to centreline. Associated risk is offset by benefits of less traffic and noise. Proposals will clearly worsen risk but negate benefits and impact Footpath safety and utility. Ad Medium Filum rights apply to this land including verges.

Current owners of Thornfield upgraded fronting rough/soil verge in early 90's to provide improved access and parking. Kirklees subsequently tarmacked over the upgraded verge, therefore losing definition. Proposals appears to be removing accrued rights for parking, including this verge in quoted road widths but retaining/incorporating continuing verge in proposals. Kirklees have commented previously *"I would not envisage any change in circumstance with regards to your parking rights"*.

Quoted widths are to bollards placed within Common Land, as repair work done by East Bierley Preservation Society (EBVPS), including placing compacted loose stone. Kirklees have confirmed that the road proposal, as previous submission 2020/90996, encroached up to 2.5m on Common Land, which is protected land under the Commons Act 2006. This proposal does the same, as images below clearly show:





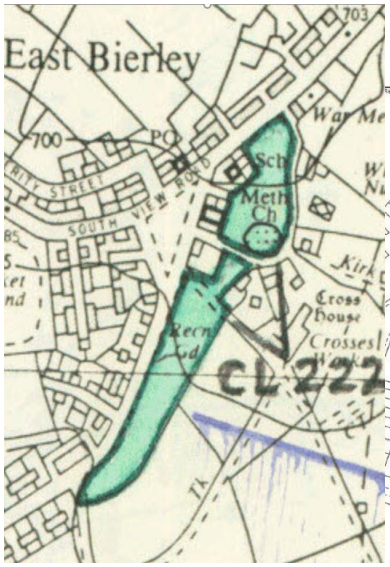
For clarity on the boundaries of Common Land and verges; Guidance HM Land Registry plans: boundaries (practice guide 40, supplement 3) Updated 9 March 2020, states:

“Case law establishes that the position of the legal boundary will depend on the terms of the relevant pre-registration conveyance or the transfer as a whole, including, of course, the plan. If the plan is insufficiently clear for the reasonable layperson to determine the position of the boundary, the court can refer to extrinsic evidence and in particular to the physical features on the ground at the time.”

The Land Registry title plan WYK813938, shows the area of Common Land (CL222) Kirklees own and the associated legal and physical boundaries. Title plan, based on mapping at the time, shows boundaries, including verges and records Bierley Marsh as a single track little over 3m wide. Images below confirm this. More recent changes, repairs to Common Land and Kirklees tarmacking work, has created the impression of wider layout.

The Open Spaces Society (OSS) who have offered support in the case of a further active threat to the Common have advised: “any revision of the boundary in accordance with resurveyed Ordnance Survey mapping is not necessarily significant — although of course it does create a presumption of significance.”

2-way junction proposals remove parking and affects disabled access at St Luke’s






Sight lines and affective two way traffic negated by parking
3.2m