

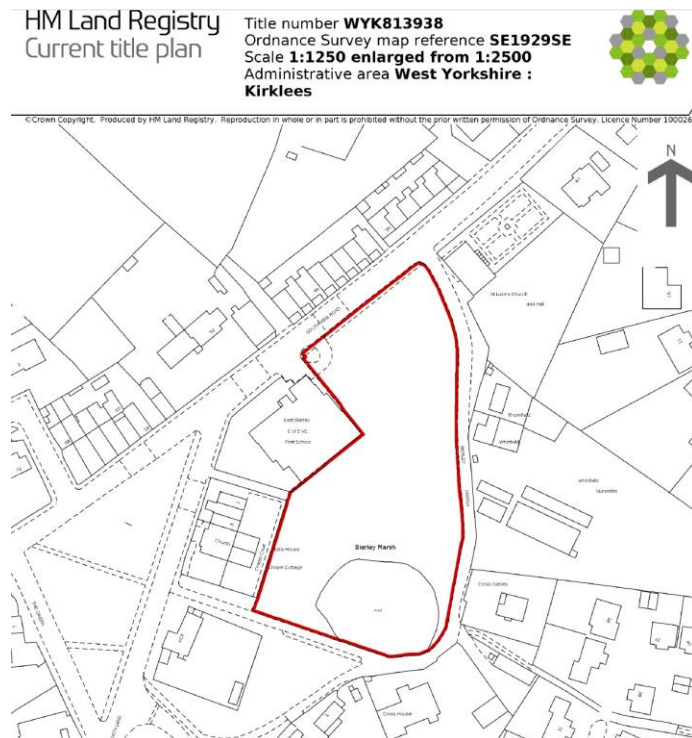
Objection - Indefeasible photographic evidence on Boundary of Common Land and width of Bierley Marsh adjacent to St Luke’s Hall and through its length.

Whilst information has previously been submitted, there still appears to be differing views on the boundary of Bierley Marsh and Common Land (CL222). At the risk of repeating I restate legal advice on this matter and note that Kirkees Highways Registry have confirmed that proposed road works encroach on Common Land by up to 2.5m.

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.”

Further advice from Open Spaces Society states: “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.”

I object to further loss of Common Land. As indefeasible evidence I attach further photos identifying the legal position of the Common Land boundary.



The Land registry title plan WYK813938, above, shows a fairly regular contour of Bierley Marsh



This photo identifies the width of Bierley Marsh near Whinfield. C. 3.2m (say 3.0m to 3.5m) which is typical of the legal width of Bierley Marsh. The Definitive Plan refers to 10ft.



Photo, above, taken around 1990 clearly shows the line of boundary between Bierley Marsh and Common land and damage to common land due to parking and made worse after trees were removed for safety reasons.

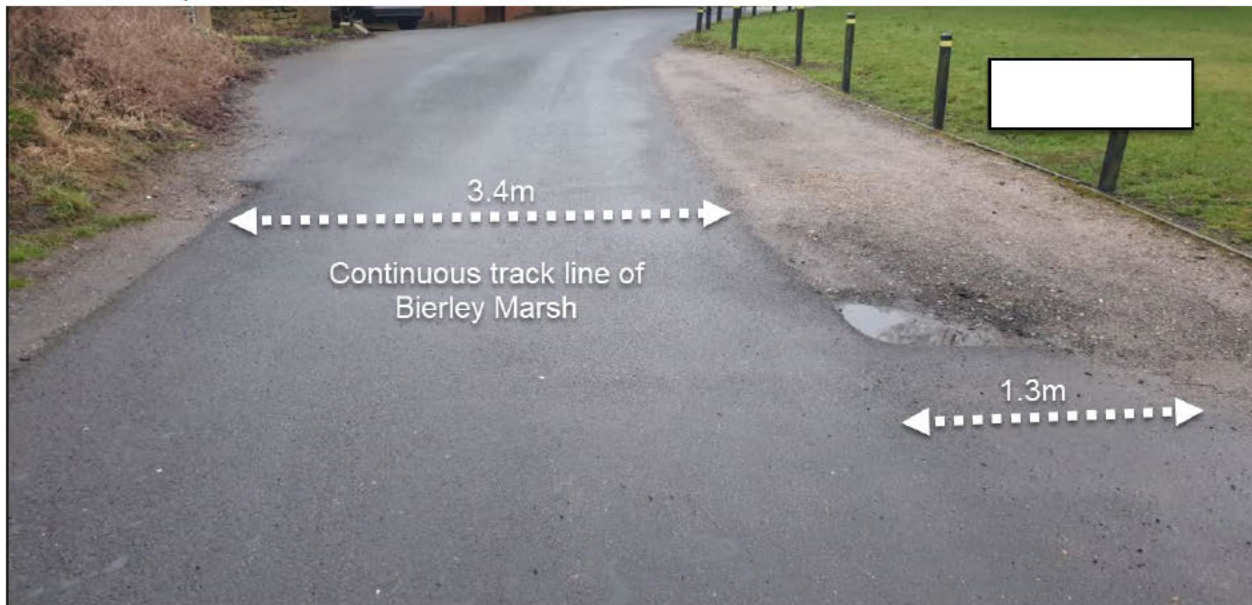


Typical damage which was repaired.

It also appears Kirklees extended tarmacking in front of St Luke's by up to 1.3m over a 19m length that was over Common Land, shown below. It is the case however that the Countryside and Rights of Way Act 2000 allows limited parking on Common Land at junctions. Parking at this location is show on the East Bierley Conservation Area Appraisal Plans and Kirklees in Pre-Planning Comment sated that "any design should provide for existing Parking"



Further to repairs measurements are shown below:



Line of Bierley marsh can be seen. From previous images this line continues to junction with South View Lane.

