

Date: 10 August 2026

Elenya Jackson, Case Officer
Planning and Development Service
Kirklees Council
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By email: Elenya.jackson@kirklees.gov.uk; dc.admin@kirklees.gov.uk

**FORMAL REPRESENTATION: OBJECTION TO PLANNING APPLICATION
2026/91923**

Land at St Luke's, Bierley Marsh, East Bierley, BD4 6PL

Objection – failure to comply with the Kirklees Highways Design Guide SPD (2019), the Kirklees Housebuilders Design Guide SPD (2021) and current national highway design guidance

Dear Ms Jackson,

1. Introduction

I write to submit a formal objection to planning application 2026/91923, which seeks variation of condition 2 (plans) on previous permission 2020/94345 (appeal ref: APP/Z4718/W/21/3289729) for the erection of five dwellings at land at St Luke's, Bierley Marsh, East Bierley. The application proposes substituting the previous access arrangements with revised plan 19-157.104J. I have made separate representations on other aspects of this application and on previous attempts by the applicant to vary the approved plans; **this objection is confined to the highways and access elements of plan 19-157.104J**, which in my assessment don't meet the requirements of the Kirklees Highways Design Guide SPD (2019), the Kirklees Housebuilders Design Guide SPD (2021), the Kirklees Local Plan, and current national highway design guidance.

As set out in section 3 below, the applicant has previously sought approval for an access arrangement that removed the highway improvements required for this site, and that approach was found unacceptable by Kirklees Highway Development Management. In my assessment, plan 19-157.104J still does not secure those improvements to the standards.

I note that this application is also subject to a statutory notice under Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, as it affects public footpath SPE/6/20. The safety and amenity of users of that footpath must therefore be given full and proper weight in the determination of this application.

2. Relevant policy and guidance framework

The application should, in my view, be assessed against the following framework:

- National Planning Policy Framework (December 2024), paragraphs 115–117, which require that safe and suitable access is achieved for all users, that street design reflects current national guidance including the National Design Guide and National Model Design Code, and that priority is given first to pedestrian and cycle movement;
- the Department for Transport’s Manual for Streets (2007), which underpins both national and Kirklees design guidance on shared surfaces and private streets;
- Kirklees Local Plan Policies LP1 (presumption in favour of sustainable development), LP20 (sustainable travel) and LP21 (highways and access) – the latter requiring that proposals “take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely”;
- the Kirklees Highways Design Guide SPD (2019), adopted 4 November 2019, in particular sections 1.6–1.7 (shared space design), 3.15–3.19 (private, non-adopted streets and shared driveways) and Table 1 (summary of residential street types);
- the Kirklees Housebuilders Design Guide SPD, adopted 29 June 2021, in particular Principle 10 (section 7.7), the “Agreeing Details Early” guidance (section 4.1), and paragraphs 7.45, 7.50 and 9.13.

The table below sets out my understanding of the applicant’s position on each of the main highway’s issues, drawn from the submitted planning statement and consultation responses, alongside the relevant adopted policy and guidance requirements that I consider apply.

Issue area	Applicant's apparent position (as I understand it from submitted documents)	Kirklees Highways SPD (2019) & Housebuilders SPD (2021)	NPPF (2024) & Local Plan policies
Pedestrian priority & segregation	High-quality shared space features are unnecessary and disproportionate for a private drive serving five homes.	Highways SPD s.1.7: shared spaces must feature a defined 'gateway', guidance paths, tactile paving, and speed management to 10–15mph. Housebuilders SPD Principle 10: must prioritise walking and cycling.	NPPF para 117(a): street design must give priority first to pedestrian and cycle movement. Local Plan LP21(e): safe layout in relation to footpaths.
Public footpath SPE/6/20 safety	The projected increase in vehicle movements is presented as not requiring a dedicated independent safety assessment.	Highways SPD s.3.16: a private street carrying a public right of way must be designed to a standard commensurate with an adoptable standard. Housebuilders SPD para 7.41: must ensure safe and convenient routes for pedestrians.	NPPF para 115: safe and suitable access must be achieved for all users. Local Plan LP21(e): expressly protects surrounding footpaths.
Refuse & emergency vehicle access	Detailed vehicle tracking is treated as unnecessary, with waste collection to be managed through general site arrangements.	Highways SPD para 3.19: tracking must ensure refuse vehicles can reach within 25m and fire appliances within 45m. Housebuilders SPD para 7.45: refuse vehicles must be able to service the site without turning or reversing.	Local Plan LP21: layouts must provide adequate width and layout for safe access. NPPF para 115: safe and suitable access for all users.
Maintenance & deferred design	Road maintenance and detailed speed-management design are treated as matters that can be resolved after consent, via planning conditions.	Highways SPD s.3.15: private streets are only acceptable where long-term maintenance is agreed upfront. Housebuilders SPD s.4.1 & para 7.50: details	Local Plan LP21: requires safe, long-term operational access, which cannot be guaranteed on a shared public right of

		must not be left to conditions; an unadopted street requires a maintenance and management programme in perpetuity.	way without an agreed scheme.
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I would ask that the Council verify each of these points directly with the applicant rather than relying on my characterisation of their position above.

3. Site history: an earlier, materially identical highways objection on this site

This is not the first time the applicant has brought forward plans to vary access. The case file for this site already contains a written response from Highway Development Management to an earlier revision of the plan 19-157.104B was substituted with plan 19-157.104D, omitting the highway improvements to Bierley Marsh. The Council's own record states:



Kirklees record of the Highway Development Management response to the earlier 104B→104D plan substitution on this site

Plan 19-157.104J appears, on the evidence available, to be a further iteration that similarly does not secure those improvements to the standard the SPD's require (see sections 4–6 below).

Given that Highway Development Management has already found an equivalent omission unacceptable on this site, I ask that the current plan be referred back to Highway Development Management for a fresh, explicit written assessment against the SPD's, and that the application not be determined until that assessment is on file and available for public inspection.

4. Non-compliance with the Highways Design Guide SPD: private streets and shared driveways (sections 3.15–3.19)

The SPD confirms that a new development of five dwellings or fewer served by a private drive may only be considered acceptable under sections 3.15–3.17 where:

- the developer agrees with the Council the principle of the road remaining private;
- the developer agrees the long-term maintenance programme for the highway infrastructure;
- the developer agrees how the entrance to the private development is to be defined on site; and
- the highway infrastructure is designed and constructed to an appropriate standard, commensurate with the guidance provided for an adoptable standard (SPD 3.16).

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STREETS**

that shared surfaces are adequately lit and that trees do not conflict with on-street car parking provision as they grow.

3.15 Private 'Non-Adopted' Streets or Shared Driveways:

New development serving more than five dwellings (or any existing private road which will serve more than five dwellings after completion of new development) should be laid out to an adoptable standard and be able to be offered for adoption. The council does not normally adopt developments of five dwellings or fewer.

3.16 Developments (in excess of five dwellings) with appropriate layouts may be considered acceptable to be served by private driveways under certain conditions. These are outlined below:

- The developer agrees (with the council) the principle of the roads remaining private.
- The developer agrees the long-term maintenance programme for the highway infrastructure.
- The developer agrees how the entrance to the private development is to be defined on site.
- The highway infrastructure is designed and constructed to an appropriate standard, commensurate with the guidance provided for an adoptable standard.

3.17 Whilst private streets and drives can often deliver a higher standard of materials than may be achievable with an adopted street, the following potential implications should still be taken into account:

- future maintenance liabilities
- public liabilities

- street cleansing
- access for refuse collection vehicles, communal bin stores, individual bin presentation points
- grit bin provision
- drainage
- lighting
- the council has no powers under the Highways Act
- the police has no powers to remove obstructions.

3.18

6 KEY DESIGN DRIVER
 To ensure that residents can access their properties, a private drive serving five dwellings or fewer should be a minimum of 4.5m wide (5.0m wide if there are structures along its initial length for example walls) for the first 5.0m of its length. This will allow vehicles to turn in and turn out. Carriageway widths after that point should be designed to respond to built form and operational requirements.

3.19 The horizontal alignment and need for passing places should be based upon practical requirements and vehicle tracking where necessary. It should be noted that a refuse vehicle needs to be able to get within 25m of all drive-ends or communal storage locations and a fire tender needs to be able to get within 45m of all rear dwelling entrances. If these distances cannot be achieved, on-site turning facilities may be needed if other mitigation measures are not in place.

Industrial and Commercial Developments:

3.20 To be acceptable for adoption by the council, industrial and commercial estate roads should be designed to comply with the following range of requirements or provide justification on not being able to meet the guidelines as set out in Table 2:

Kirklees Highways Design Guide SPD (2019), p.31, sections 3.15–3.19

These matters, in my view, are not addressed in the submitted application. No long-term maintenance plan has been submitted for the access, notwithstanding that Bierley Marsh also carries a public footpath (SPE/6/20) and will need to accommodate a materially intensified level of use (see section 7 below).

5. Non-compliance with Table 1 of the Highways Design Guide SPD (residential street types) and section 1.7 (shared space)

Table 1: Summary of Residential Street Types

Title	Residential Connector Street (Type A)	Local Residential Street (Type B)	Shared Surface Street (Type C)
Potential number of dwellings	300 - 700	200 - 300	An amount generating no more than 100 VPH
Alignment	Curvilinear	Curvilinear/angular	Angular with alignment shifts
Design speed	25 mph	20 mph	15 mph
Speed restraint feature separation (Maximum)	100m	60m	40m
Forward visibilities	33m	25m	23m
Centreline radius (Minimum)	35m	20m	Based on vehicle tracking
Typical Cross-section	2m footway - verge - carriageway - verge - 2m footway	2m footway - carriageway - 2m footway	hard margin - carriageway - hard margin
Carriageway width	6.75 metres	5.5m	5.5m
Crossfall	Balanced either side of centreline	Uniform fall across carriageway	Uniform fall across carriageway
Pedestrian provision	Segregated (typical kerb check 100mm)	Segregated (typical kerb check 30mm + 100mm)	Shared surface (inc. semi-shared with 30mm kerb check footway)
Verges	1.2m grassed verge between footway and carriageway on both sides	Desirable	0.6m wide hard margin on both sides (except where a footway is provided)
On-street parking	On-street parking to be provided by laybys and/or localised carriageway widening	On-street parking to be provided by laybys and/or localised carriageway widening	On-street parking to be provided by laybys and/or localised carriageway widening

Kirklees Highways Design Guide SPD (2019), Table 1: Summary of Residential Street Types

Table 1 sets minimum standards for a Shared Surface Street (Type C), including a 5.5m carriageway and, where applicable, a 0.6m hard margin on both sides. The submitted plans do not, in my assessment, show the required 0.6m hard margin to either side of the proposed 5.5m carriageway. Different plans and consultation comments associated with this application inconsistently record the carriageway as 5m wide, which in my view is evidence that the access has not been designed to a settled, compliant standard.

Section 1.7 of the SPD requires shared space proposals to create a clear “gateway” into the shared space, incorporate guidance paths for pedestrians, manage vehicle speed to 10–15mph, and use tactile paving and other measures to highlight pedestrian crossing points. No such measures are shown or described in the application. There is no segregation between vehicles and pedestrians anywhere on the proposed access, contrary to the priority that both the SPD and NPPF paragraph 117(a) require to be given to pedestrians.

1.6 Shared Space:

Pedestrian movements should also be equally catered for on Shared Surface Streets. Shared space aims to improve pedestrian movement and comfort by reducing the dominance of motor vehicles and enabling users to share the space rather than follow the rules implied by more conventional road priority management systems. Using shared space on streets in residential neighbourhoods (where there will be minimal vehicular traffic) can help to create streets that are welcoming for children, pedestrians and the community as a whole. The intention is to design streets as places instead of simply corridors for vehicular movement. There is no such thing as a definitive shared space design as every site exhibits uniquely individual characteristics.

1.7 Shared space proposals should:

- create a ‘gateway’ into the area of shared space that differentiates the space to the main highway. This can be achieved by a speed restriction sign, narrowing of the carriageway/overall street width, vertical change in street surface level and/ or contrasting surface finishes from surrounding streets to imply pedestrian priority
- incorporate guidance paths to lead pedestrians along safe and logical routes
- manage speed through design (to achieve a vehicle speed of between 10 – 15mph, with 10mph preferred)
- keep the space uncluttered through minimal use of traffic signs and other street furniture
- enable the space to be kept free of obstacles by providing accessible and unobtrusive bin presentation points

• use the appropriate coloured tactile warning blister paving to indicate crossings in areas of shared space for visually impaired pedestrians and also to highlight pedestrian crossing points to drivers.

• highlight uncontrolled crossings by a combination of the following

- tonal/visual contrast, bollards to indicate the pedestrian entry to the crossing, a raised table (if not a level surface), narrow pinch points and differently textured surfacing and planting on vehicular approaches to crossings.



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Kirklees Highways Design Guide SPD (2019), p.21, sections 1.6–1.7 (shared space)

6. Non-compliance with the Kirklees Housebuilders Design Guide SPD (2021)

The Housebuilders Design Guide SPD, adopted 29 June 2021, reinforces and extends the requirements of the Highways Design Guide SPD in four respects that are directly relevant to this application:

- **Agreeing details early (section 4.1):** the SPD states that working with the Council from an early stage “can help ensure that responses to site constraints and detailed highways designs are agreed when a site receives planning permission and that details are not left to planning conditions.” This conflicts with any suggestion that speed management and road layout for this site can be resolved after consent, since the SPD requires these matters to be agreed before permission is granted.
- **Pedestrian and cycle priority (Principle 10, section 7.7):** site access must “prioritise the needs of people walking and cycling” with routes that are “safe, convenient, direct and accessible.” The submitted scheme provides no segregation between vehicles and pedestrians on a shared access that, on the figures set out in section 7 below, will see a substantial increase in vehicle movements.
- **Maintenance of unadopted streets (paragraph 7.50):** an unadopted street must have “a maintenance and management programme in perpetuity.” As this private street also carries a designated public right of way (footpath SPE/6/20), securing that maintenance programme upfront is, in my view, a matter of public safety and not simply a private matter between the developer and future residents.
- **Refuse servicing, (paragraphs 7.45 and 9.13)** give more ownness for the developer to comply with the Planning Inspectors Condition 33 to provide “*details of the boundary treatments and bin collection point are necessary*”

7. Lawful means of access over public footpath SPE/6/20

The proposed access works run over a well-used public footpath, SPE/6/20, carried along private street Bierley Marsh. SPE/6/20 leads to a high-amenity area to the rear of the local school and adjoining common land. The Kirklees Definitive Map and Statement confirms that no public vehicular access rights exist. – it is a footpath, carrying pedestrian rights only. I understand that the four existing properties fronting onto SPE/6/20 hold private vehicular access rights, acquired through prescription and, in some cases, express grant. No parking rights exist over Bierley Marsh and SPE/6/20.

I asked Kirklees, by way of a Freedom of Information request, to confirm whether the developer holds an equivalent private right of vehicular access over the footpath to serve the new dwellings. The Council’s response, reproduced below, confirms that this information is not held by the Council:

42496 - Private vehicular access over public footpath SPE 6-20/30 

Freedom Info <Freedom.info@kirklees.gov.uk>
to me

Thu 26 Mar, 15:02

Dear Mr Hill

I am writing in response to your request dated 5 March 2026. This has been dealt with under the Environmental Information Regulations 2004.

Your questions and the Council's response are as follows

Please confirm that the developer has private vehicular access rights over public footpath SPE 6-20/30 to enable him to lawfully run construction vehicles over the public footpath and ultimately serve the new properties.

This information is not held.

Please also confirm that Kirklees have discharged condition 5 as application 2025/91001.

The Application is still live and can be viewed by the enquirer via the below link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2025%2F91001>

Kirklees Freedom of Information response, 26 March 2026, on private vehicular access rights over footpath SPE/6/20

Kirklees Officers have confirmed:

RE: Parking on Bierley Marsh     

 **Highways Registry** <Highways.Registry@kirklees.gov.uk>
to me, Karen, Catherine, parks 

Fri, 11 Mar 2022, 12:54    

Dear Mr Hill

Bierley Marsh is an unadopted road which carries a legally recorded public footpath (Spenborough Footpath No. 6).

Under S34(1) of the Road Traffic Act 1988, it is an offence to drive a mechanically propelled vehicle, without lawful authority, on a road that is a footpath. However, it is not an offence if a person drives a mechanically propelled vehicle on any land within fifteen yards of a road for the purpose only of parking the vehicle on that land.

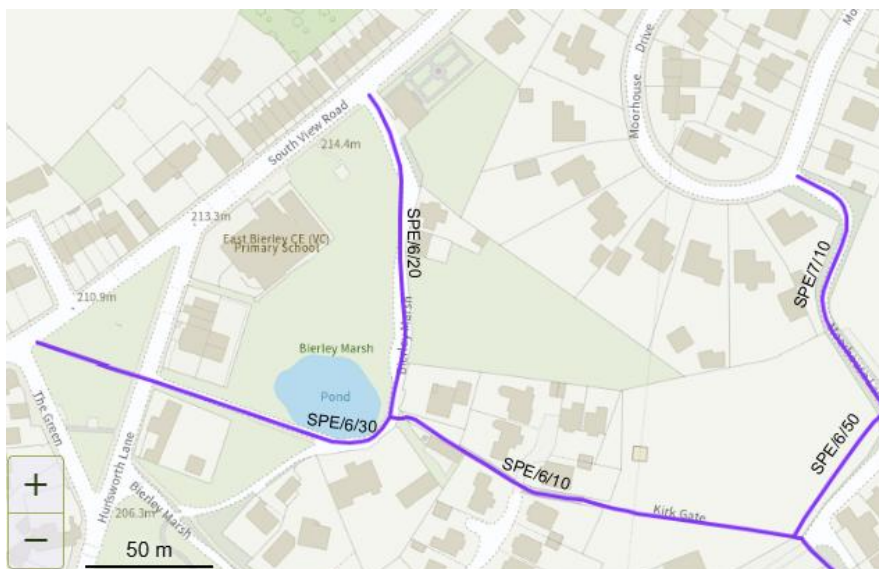
It is also worth considering the phrase "lawful authority". Clearly, there may be instances when drivers have lawful authority to drive on a road which carries a footpath. For example, local landowners such as yourself have to drive along Bierley Marsh to access your property. However, the law places the onus on everyone driving on a road which carries a footpath to prove that they have the right to do so. Simply having done so for a number of years may not necessarily constitute proof of a legal private vehicular right.

In my view the above matters are material considerations: if the applicant cannot demonstrate a lawful private right of vehicular access over the footpath, the proposed means of access may not be capable of lawful implementation regardless of its highway design merits, **and the Council should require this to be clarified before determining the application.**

Separately, it would also appear that condition 5 of appeal ref. APP/Z4718/W/21/3289729, which requires that, prior to commencement of development, a scheme for the re-surfacing of that part of Bierley Marsh within the application boundary (as shown on plan 19.157.101) be submitted to and approved in writing by the Local Planning Authority, and implemented in its entirety and completed prior to any dwelling being first occupied, has not yet been discharged. **I would ask the Council to confirm the status of that condition as part of its assessment of this application.**

8. Impact on public footpath SPE/6/20 and highway safety

At pre-application stage, it was acknowledged that this site, together with a nearby site, also owned by the developer, could result in 17 additional properties taking access over public footpath SPE/6/20, where currently there are only 4. This footpath is a popular route near the local school, and pupils are regularly seen using it for exercise and jogging.



Extract from Kirklees public rights of way mapping showing footpath SPE/6/20 and its surroundings

That footpath (SPE/6/20) is the subject of the statutory Article 15 notice attached to this application, confirming the Council's own recognition that the proposal affects a public right of way. Despite this, the application contains no independent assessment of the safety implications of that scale of increase for footpath users, no proposals for segregation or traffic calming appropriate to a five-fold increase in use, and no long-term maintenance commitment for the surface that both vehicles and the public will share. This is, in my view, a direct conflict with NPPF paragraph 117(a) (priority to pedestrians) and Local Plan Policy LP21(e) (safe and adequate layout in relation to surrounding footpaths).

9. Conclusion and request

For the reasons set out above, plan 19-157.104J does not, in my assessment, demonstrate compliance with sections 1.6–1.7, 3.15–3.19 or Table 1 of the Kirklees Highways Design Guide SPD (2019), with the Kirklees Housebuilders Design Guide SPD (2021), with Kirklees Local Plan Policy LP21, or with NPPF paragraphs 115–117 and the Manual for Streets. I ask that Kirklees Council:

- formally re-consult Highway Development Management on plan 19-157.104J and place their written response on the public file before determination;
- require the developer to submit a scheme showing full compliance with SPD sections 3.15–3.19 and Table 1, including the 0.6m hard margins and a settled, unambiguous carriageway width;

- require submission and approval of a long-term maintenance plan for the access, secured by planning conditions or legal agreement, before any access-related works commence;
- require the applicant to demonstrate a lawful private right of vehicular access over public footpath SPE/6/20 sufficient to implement the proposed means of access, before the application is determined;
- confirm the current discharge status of condition 5 of appeal ref. APP/Z4718/W/21/3289729;
- require an independent assessment of the impact of the projected increase in traffic on users of public footpath SPE/6/20, with appropriate mitigation secured by condition; and
- Show position and details relating to bin storage and refuse collection.
- refuse the application, or defer determination, until the above matters are resolved to the satisfaction of Highway Development Management.

I would be grateful if you could confirm receipt of this representation and display it on the Kirklees Planning Portal in accordance with the Council's usual policy.

Yours sincerely,

Sources referenced

- Kirklees Highways Design Guide SPD (2019):
<https://www.kirklees.gov.uk/beta/planning-policy/pdf/highway-design-guide-spd.pdf>
- Kirklees Housebuilders Design Guide SPD (2021):
<https://www.kirklees.gov.uk/beta/planning-policy/pdf/housebuilders-design-guide-spd.pdf>
- Kirklees Local Plan – Strategy and Policies (Policy LP21, Highways and access):
<https://www.kirklees.gov.uk/beta/planning-policy/pdf/local-plan-strategy-and-policies.pdf>
- National Planning Policy Framework (December 2024), paras 115–117:
https://assets.publishing.service.gov.uk/media/67aafe8f3b41f783cca46251/NPPF_December_2024.pdf

- NPPF – Promoting Sustainable Transport (gov.uk guidance):
<https://www.gov.uk/guidance/national-planning-policy-framework/9-promoting-sustainable-transport>
- Public notice confirming application 2026/91923 affects public footpath SPE/6/20 (Article 15 notice):
<https://publicnoticeportal.uk/notice/planning/6a6cb095209f3d4953c2e8f2>
- Appeal decision APP/Z4718/W/21/3289729 (condition 5, re-surfacing of Bierley Marsh): https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2020/94345&file_reference=929703
- Application 2025/91001 (discharge of condition 5 – status):
<https://planindex.co.uk/planning-applications/kirklees/2026-91923>