

App N –see report paragraphs 1.5 and 2.38

Statements regarding use of land in front of no.7 between the tarmac surface of the road and the field boundary being by permission.

From Mr & Mrs F, owners of no. 7 St Mary's Rise June 2019 – see additional letter at App N

"I understand that you met with [YCP] last week and that you are planning to make a decision on the footpath application soon. We are pleased to hear this as we are keen to resolve this matter.

The building work in the field is underway and there is no need to continue with this. The residents we allowed to use our cut-through have obviously found alternative routes now.

As you are aware, we withdrew our evidence and Stephen Cook withdrew his application too. We now understand that it is not possible to withdraw a footpath application and you still have to officially say 'yes' or 'no' to Stephen's application, even though it has been withdrawn. This was something that we didn't know at the time.

At the time we submitted our evidence it was just neighbours and people we knew using the footpath and as the plans stood, there were only going to be five houses and we didn't think there would be lots of people we didn't know using it. As it stands, we do not want, nor did we anticipate the general public to be using the path, only people we know. We should have realised that by having an official footpath we were opening the access up to everyone and we didn't really consider that, nor did we want it.

This was never the arrangement we had with neighbours and the local residents. It was always restricted to people on the estate that we knew and trusted and they were all aware of this. This was something that we always kept a close eye on and if we had not known or recognised someone using our cut through then we would certainly have stopped them. We would likely have closed it up altogether if that was ever a problem.

This whole footpath situation is much more complicated than we, and probably the others on the estate, had realised. If we could go back, we would not have agreed to support the footpath application knowing what we know now. We didn't realise what we were getting into and agreed to do this without full knowledge of what is required for a proper footpath to occur and what that involves.

You will have probably have seen that we park cars on the land in front of the cut through and we would also like to build a garage there. Our neighbours also park their caravan there.

To clarify, we never had any intention for just anyone to use the cut through. This has never happened and was always clear and understood by the local residents. We would have never agreed to or allowed just anyone to use the cut through.

We just want to move on now and stop worrying about what is going to happen to our land. We apologise for any inconvenience caused, but again this whole thing seems very complicated and we just didn't know about what this all involves.

Could you please confirm when this is all resolved. You may share this email with anyone necessary to get this sorted as soon as possible."

From a resident that had not completed a user evidence form.

"I am led to believe that there is a consideration to allow a path onto St Marys estate from the new build estate off Miry lane in Netherthong. I was led to believe that the land across which it would pass was private land partially / fully owned by [Mr & Mrs F] Access to the field where the building is now occurring was by permission only if we were to enter the field as friends of [Mr & Mrs F].

I would certainly object if a free footpath was granted as short cut and throughway was unnecessarily created for no purpose through the estate. Its only purpose could be a short cut the Cricketers arms public house and surely creating late night noise and disruption.

I would hope that this path will not be made and at least a period of public consultation if it were to be considered"

From two witnesses who completed user evidence forms

“We can confirm that we have lived at our present address since 2009 and over this time have kindly been granted permission by [Mr & Mrs F] to cross their land to access the field off Miry Lane for dog walking and sledging. We do not believe Kirklees Council should be approving a new formal footpath order on [Mr & Mrs F]’s land.”

From the applicant

“[...] I am informed that this application is meandering its way to a Committee. As the new development is being laid out it seems somewhat belated.

I moved into my house, newly built, in 1972. The houses at the top of St.Mary’s Rise were built not long afterwards but I cannot recall when they were completed.

It was around 1980 when my children were at primary school that I began to frequently enter the field with them.

Around this time the then Water Authority decided that the sewers on the estate were private. I led the residents objections and appeal which was decided by the Minister, Michael Heseltine in our favour in 1982.

In order to research our case I had to study legal texts (in Bradford Council’s legal department) and of course the original plans for the estate.

Who actually owned the sewers and the land they were in became an issue.

It was during this process that I learned the status of the land at the end of the cul de sacs i.e. it belonged to the properties on either side. I believe the technical term is ransom strip.

Anyway, in the process of consulting all residents re the sewers I ensured that my family had permission from the owners (and subsequent owners) to cross the “ransom strip” to access the field. This was never a problem as there was no disturbance in accessing the field and especially in the early 80’s there was considerable community spirit amongst the residents given the 18 month saga of the sewers. Also, many of the households contained children of a similar age whose parents knew each other.

Of course children and their parents from off the estate entered the field from Miry Lane for sledging so it was a limited number of known (to the ransom strip owners) adults and children who accessed from the Rise.

The majority of children exited the field the way they entered as they were playing in the field .It was just a small number of mainly adults (and dogs) that crossed from one side to the other.”

Summary including above and further submissions and information from interviews with witnesses regarding permissive use. (‘UEF’ identifies witnesses who completed a user evidence form)

Landownership linked to: 3 UEF witnesses.

Family stating they were given permission: 4 UEF witnesses

Family where it is stated that the parents and children were given consent: 4 UEF witnesses

Family stating that they were given permission: 2 UEF witnesses

Stating that access was taken with landowner: 2 UEF witnesses

Stating that use was by permission of Mr A: 1 UEF witness (married to another UEF witness)

Stating that they did not use the path: 2 UEF witnesses

Another witness said they had permission of landowner (no UEF).