

Application Comments for TP/ED/13/0169

Application Summary

Application Number: TP/ED/13/0169

Address: Footpath And Lane Off Mosshead Road Bearsden East Dunbartonshire

Proposal: removal of condition no. 10 of planning permission TP/ED/10/0834 (seeking to keep access lane free from obstruction) and addition of 1.8m high gate at southern end of access lane

Case Officer: MR [redacted]

Customer Details

Name: [redacted]

Address: [redacted][redacted][redacted][redacted]

Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Burnbrae Residents' Association strongly objects to any attempt being made to close this Right of Way. We have strenuously objected to each development impacting on this right of way and have been informed each time by EDC - despite our concerns - that it was protected by conditions attached to the granting of planning. To now see an attempt to overturn those conditions launched is both predictable and insulting to the residents of the area. The survey carried out to establish this footpath as a recognised right of way generated the largest response ever received, clearly indicating the will of the community regarding this. This right of way must remain open as it has done for over 40 years.

[redacted] , [redacted] Burnbrae RA

ref. TP/ED/130169

I have just learned of [redacted] application to build a gate thus barring access through the lane from Mosshead Rd. to the Burnbrae Hotel. I would point out that one of the conditions he was granted permission to build was that the lane would not be closed as it has been used as a right of way for over 40 years. [redacted] saw me at the original site meeting and when he saw me coming up Mosshead Rd. a few days later he came over to ask me what all the objections were to his building a house in the lane. When I mentioned the neighbourhood had heard he was proposing to close the lane he categorically denied he had any intentions of doing this. It would appear he has lied about this.

[redacted]

[redacted]
[redacted] Burnbrae Residents' Association

Burnbrae Residents' Association

[redacted][redacted]
[redacted]
[redacted]
[redacted]
March 4th 2013

Development & Infrastructure
Development & Enterprise
Broomhill Depot
Broomhill Industrial Estate
Kilsyth Road
Kirkintilloch
G66 1TF

Dear Sir,

Ref. :-TP/ED/13/0169 - Removal of condition no. 11 of planning permission TP/ED/10/0834 (seeking to keep access lane free from obstruction) and addition of 1.8m high gate at southern end of access lane

I write on behalf of Burnbrae Residents' Association concerning a planning application lodged with the Planning Department of East Dunbartonshire Council (EDC) by [redacted] [redacted][redacted][redacted][redacted][redacted][redacted] This Association has been repeatedly told by EDC that condition 11 on a previous application "That the *access lane* hatched green shall remain open for public use at all times" offers adequate protection for continued public access to this established and well-used Right of Way. The developer now wants to overturn this condition and block off much of the access lane. The condition, you will note, refers to the access lane as a whole, not to some part of it, large or small. "This *access lane* constitutes a public access which is important for local amenity. " (EDC's own wording from the planning documents)

The proposed installation of a 1.8m electrically-controlled access gate, and the fencing-off of a small part of the access lane (in one area leaving a strip of around only 1m width) is a major interference regarding this legally recognised, well established and well used Right of Way for residents in the Burnbrae area. EDC are well aware of the disputes that have surrounded this Right of Way, and of the behaviour of the owner of the land towards residents exercising their legal right to use this lane.

We believe that the proposed removal of the previously approved planning application condition 11 by EDC is contrary to common law, which does not permit a public right of way to be obstructed to any material extent and requires that any form of obstruction to a public right of way must be justified by the proprietor as non-material. We fail to see how the proposed installation of 1.8m high gates requiring the overturn of an imposed planning condition can be construed in law as being "non-material", and therefore EDC must refuse this application.

Yours faithfully

[redacted][redacted]
[redacted] Burnbrae Residents' Association.

TP/ED/130169

Apologies and please disregard previous E-mail. I was unable to access plan on website and based my e-mail on incorrect information. I have been given the correct information tonight.

I accept [redacted] is not proposing to actually close the lane. I would point out ,however, that the current application is not in agreement with the previous planning condition which was in place when he was given permission to build the house. It stated that the RoW should remain clear and unobstructed.

[redacted]

[redacted]
[redacted] Burnbrae Residents' Association