

Mr. L. Thompson,  
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Your ref:  
Our ref: JL/LJ/D3.1.4.3

31<sup>st</sup> March, 2010

Dear Mr. Thompson,

**APPEAL 09/597632**

Thank you for your letter dated 10<sup>th</sup> March, 2010 regarding your concerns about the condition of School Brae, Letham during the winter period.

The main priority is to ensure that the main routes are kept clear. It is only if these main routes are in a reasonable condition that resources can be deployed to treat the lower priority routes. During the worst of the recent winter, resources could not be re-directed to treat minor roads and residential streets. All grit bins in North Fife, including School Brae, were filled 3 times between 6<sup>th</sup> January, 2010 and 19<sup>th</sup> January, 2010. I note that you believe that the bins were only filled on 13<sup>th</sup> January, 2010 but it is likely that immediately after being filled the grit was used by others.

The collection of waste and recycling was affected throughout Fife due to the condition of the roads. During this period, the Environmental Services workforce assisted in the hand clearing of snow and ice. This was necessary due to the need to concentrate on the main routes.

I confirm that School Brae, Letham is not an adopted road. School Brae could only be adopted if it was upgraded to an acceptable standard. One of the main reasons that the road is not adopted is that there is no formal turning head at the top of the road. Any work required to upgrade the road would need to be funded by the landowners/frontagers on this road.



Gold Award

The statutory roads maintenance responsibility of Fife Council is clearly defined within the Roads (Scotland) Act 1984, to which you refer. There is local reference to the term "Unadopted Road" but the term for such a road is "Private Road" as defined within the Act. A "Private Road", such as School Brae, is defined as a road *"over which the public have a right of passage but whose maintenance is the responsibility of the frontagers"*.

Under Section 14 of the Act a local roads authority has delegated optional powers to assist in the maintenance of a private road. Over the years Transportation Services have assisted the residents of School Brae by undertaking maintenance works on the road but by providing this assistance the Council does not incur responsibility for the future maintenance or liability of the road. This responsibility remains with the landowners/frontagers.

Fife Council does have some responsibility as a road frontager as the school is located at the top of the hill. Education Services liaise with pupils and parents and make decisions on whether the school is accessible, which may mean closing the facility if there is concern for public safety.

I am sorry to hear that there has been physical damage to your property by an unknown party. However, this is an issue for you and your house insurers to pursue. For the reasons stated above, Fife Council is not responsible for this damage.

In regards to your requested remedies I would comments as follows:-

- Points 1 & 2 - Fife Council will not adopt this road unless the road is upgraded to an acceptable standard, including the construction of a turning head at the top of the road.
- Point 3 –Because the road is not adopted, maintenance is, and will remain, the responsibility of the frontagers. However, Transportation Services will investigate the drainage problem and advise you of proposals. Any assistance provided will be dependant on other competing priorities, including available funding and resources and without incurring any responsibility for future maintenance
- Point 4 – Fife Council is not obliged to provide grit bins on a private road but it is recognised that this road has a steep gradient and grit bins have been provided. School Brae is within a "Conservation Area" and there is a restriction on the type of bin that can be used. The current bin meets the set criteria and cannot be replaced with larger bins.

- Point 5 – Fife Council have undertaken winter maintenance to the standard set within the Council's Winter Maintenance policy. We regret that it was not able to keep all roads clear but, as explained above, the priority must be to keep the main routes clear.

Over the holiday period Fife experienced severe weather which was the worst for more than 30 years. Although we had well prepared plans for winter maintenance the severity of the weather stretched our resources. The Council is conducting a review of how we coped with the situation with a view to improving our performance where we can. The findings of this review will be made public in due course.

I hope this satisfies your appeal. If you are unhappy with my response, you have the right to refer your complaint to the Scottish Public Services Ombudsman (see enclosed leaflet).

Yours sincerely,



Ronnie Hinds,  
Chief Executive,  
Enc.