

Annex 6

Known history of boundary wall and railings

The file kept by Parks and Open Spaces relating to the installation of the present railings and other investigations suggest the following:

- The ownership of the wall and railings is not registered at the Land Registry, it is unregistered. This does not mean that it is not owned by anyone, just that it has not changed hands in the last 30-40 years.
- Scarcroft Road back-lane is adopted up to the point where it meets the green but the dead-end alley in front of the Scarcroft View properties is privately owned (see plan, Annex 1).
- Railings were originally installed along the whole length of the low wall, closing Scarcroft View off from Scarcroft Green completely; that side of Scarcroft Green being previously used as allotments.
- A gap in the railings (not the low wall) in front of Scarcroft View was created some time ago either by residents of Scarcroft View or through disrepair (see photographs, Annex 7).
- Residents of Scarcroft View allege that where the gap in the railings used to be there used to be steps to the top of the wall from the alleyway. These steps no longer exist and the Parks and Open Spaces Officer does not recall any steps being in existence before he commissioned the work to be done to the wall and railings.
- Over the following years the railings and wall began to suffer from lack of maintenance and alleged vandalism by local school children. The condition of the railings became dangerous in 2001. Residents were not willing to take on responsibility for it so CYC Parks and Open Spaces Officer had the railings removed for safety reasons in 2001.
- After complaints were received from residents regarding an apparent increase of anti-social behaviour because the remaining railings had been removed, CYC then arranged to have the wall and railings re-instated. Residents of Scarcroft View had requested a gap be left so that they could still have easy access to the green, and after consultation with all properties affected it was found that the majority were in favour. A gap in the railings with a step down from the green was therefore left at the southern end of the wall. The replacing of the railings and the provision of the gap was made at considerable cost to the council.
- Given the fact that the council does not own the wall and railings, CYC should perhaps not have paid for this work to be done.
- It is unlikely that private rights of access have come into being for residents of Scarcroft View under common law because although there was a gap in the railings for some considerable time in front of their properties, the continued existence of the low wall meant that there was never a defined pathway. The claimed steps could call this into question, however it could be argued that as the steps were only alleged to have existed on the Scarcroft View side of the wall, steps

should also have been in place on the green side for this to be taken into consideration.

- It is therefore contended that residents of Scarcroft View do not have a private right of access onto the green.