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**THE ULLSWATER AVENUE FOOTPATH CRIME PREVENTION CLOSURE**

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**Responsible Cabinet Members - Councillor David Lyonette, Transport Portfolio and  
Councillor Bill Dixon, Neighbourhood Services and Community Safety Portfolio**

**Responsible Director - Cliff Brown, Director of Community Services**

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**Purpose of Report**

1. The purpose of the report is to advise Members of the crime and antisocial behaviour issues associated with a footpath at Ullswater Avenue and to determine whether a Special Extinguishment Order or Gating Order should be pursued.

**Background**

2. People living adjacent to footpaths often complain that the presence of a footpath can facilitate crime and anti-social behaviour. Darlington is no different to other parts of the country and there are numerous complaints of this nature. Over the last 3 years residents have reported incidents of crime and anti-social behaviour that they believe is associated with the presence of the footpath between Ullswater Avenue and Railway View.
3. The Anti-Social Behaviour Team manages all initial complaints of this nature. Each location is treated on an individual basis with both enforcement and engineering options considered to reduce the problem and complaints. The decision to consider a closure would only be taken when all other avenues have been exhausted. Currently, no budget provision is available within the Anti-Social Behaviour Team to progress closure requests.
4. If a footpath closure is identified as an appropriate course of action the details are referred to the Traffic Management & Road Safety Team to consider the highway closure and the most appropriate method to pursue. Footpath closures can be extremely complex and resource intensive to manage and deliver. Details of the legislation available is contained at **Appendix A**.

**Information and Analysis**

***Status of the Path***

5. At present the Ullswater Avenue path is not recorded in the Councils list of streets, prepared under Section 36(6) of the Highways Act 1980, as a highway maintainable at public expense, nor is it shown on the Definite Map of Public Rights of Way. However, when the development was conceived it was intended that this link would form part of the adopted highway when the estate roads are adopted.

6. Having said that it is the considered view that the path has highway status by virtue of the fact that it has been constructed as a footway/cycleway link on Council land and open to the public without restriction. Therefore, the maxim “once a highway, always a highway” applies and as such the relevant legal processes must be followed to remove this status.

### ***History of the Development***

7. The Ullswater Avenue development is situated on land, which was previously occupied by an Engineering Works. The site was the subject of a reclamation scheme under a Derelict Land Grant provided by the Government. In 2001 after reclamation of the land a development was built which consisted of 3 streets – Ullswater Avenue, Ambleside Walk and Keswick Grove.
8. In 2003 a further development was completed in close proximity consisting of Pudsey Walk and Railway View. The two developments are separated by an area of Council owned land that consists of mounds of earth. The Railway View development included a pathway/cycle link through this area to link the two developments. The link was opened in May 2004.
9. A further residential development is planned on land adjacent to Railway View. This is proposed to be a residential development of about 42 properties.
10. Residents in the area experienced problems with the pathway almost as soon as it was created. Complaints were received that they were experiencing increased levels of crime and anti-social behaviour that previously had not been a problem.

### ***Mitigation to Alleviate Residents’ Problems***

11. The Council considered various alternatives to closure in order to improve the situation for the residents. One of the main problems with the footpath is that it is situated between two mounds of earth. This area of land also adjoins the railway line, which provides unauthorised access points to the area. In order to improve security a high level steel fence was erected around them. The area has also been landscaped and the feedback we have received is that residents are pleased with the result. These works were completed in December 2006 at a cost of £37k. To some degree this has improved the situation but residents maintain closure of the path is the ultimate solution in eradicating the problem.
12. The installation of Closed Circuit Television (CCTV) has also been investigated for the streets affected. The system would be linked by cable to the local authority’s control centre in the Town Hall. Pole mounted cameras would be used. However, as well as being prohibitively expensive, there was a real risk that the equipment itself would have been the subject of vandalism.
13. There has been an increase in Uniformed Warden Activity in the area in an attempt to deter youths congregating and although there has been a large warden presence, it is often the case that youths will disperse upon the arrival of the wardens and re-congregate once they have left the area or uniformed Wardens are unable to locate the youths upon their arrival and are therefore unable to authenticate the complaint.

## *Consultation*

14. The issues associated with this path have occurred at a time when there have been changes in the relevant legislation. The Council has worked with residents during this evolving period of legislative changes to resolve the problems. Despite efforts on engineering and enforcement fronts it seemed increasingly evident that the opening of the walkway was a contributory factor towards an increase in the number of complaints.
15. Approval was sought from the Planning Applications Committee to vary the original planning requirement (requiring the construction of a dedicated footpath and cycle link). With support from the Police permission was formally granted on 13 April 2005 to remove the requirement for the path from the planning approval.
16. It was explained to the residents that further steps were necessary to close the link and they were consulted on the options available to the Council for implementing the planning permission.
17. After comprehensive consultation in 2006 there emerged a clear majority of residents supporting the view that the Council should apply to DEFRA for an order designating the immediate area as one of high crime, with a view to the Council making a special extinguishment order. (See **Appendix A** for further detail on legislative process)
18. An application was submitted to the Secretary of State resulting in a Designation Order covering the footpath being laid before Parliament. The Order came into effect on 1 August 2007.
19. Residents were sent a newsletter in July 2007 advising them of the position and the next stages in the process. Some are in favour of closure believing that it will tackle the crime and anti-social behaviour issues whilst others are against and do not wish to lose the convenience of the path in terms of access to amenities in the area.
20. In September 2007 a letter was sent to Alan Milburn MP from “The residents of Ullswater Avenue, Ambleside Walk and Keswick Grove” cataloguing a series of incidents in the Ullswater Avenue area. The letter suggests that the Council are championing the protests of those who do not live in the area rather than the residents who have to live with the problems.
21. The letter is not signed and does not specify the date range indicating when the incidents occurred. The data bears no evidence that the crime has been reported to the Police to allow cross-referencing. It has not been possible to establish whether this is a complete record for all properties in the area.
22. Analysis of the information within the letter shows 13 properties have recorded incidents in Ullswater Avenue, 3 in Keswick Grove and all 8 properties in Ambleside Walk. The incidents predominantly relate to shed burglaries and interference with motor vehicles. Of the 24 properties reporting incidents, 15 are either in Ambleside Walk or north of it towards Smithfield Road.

## ***Evidence Required to Process a Special Extinguishment Order***

23. In considering a Special Extinguishment Order there are a number of issues that Members should be aware of.
24. Government guidance advises that before an Order can be made, the Authority must be satisfied on a number of factors, as follows:
  - (a) **It is expedient for the purposes of preventing or reducing crime, which would otherwise disrupt the life of the community.**

Statistically crime has risen in the Ullswater Avenue area since 2001 (when the development was built). An updated version of the statistics used to support the application to DEFRA is appended as **Appendix B**.

Crime has risen as the developments have been populated with a noticeable increase in 2004/05 (the path opening in May 2004). In 2006/07 the level of crime reported was 22 crimes similar to that of 2005/06.

In 2006/07 the main crimes were associated with vehicle crime. This accounted for 59.1% of the reported crime.

It could be considered that the presence of the path allows pedestrian movements between the developments and those facilitating crime maybe walking this route looking for opportunities. There is no doubt that this type of crime disrupts the life of the community. The closure of the path would make the developments cul-de-sacs and would remove pedestrian movements between the estates.

In terms of the wording of the factor then a closure of the path may potentially reduce crime, which is disrupting the life of the community.

- (b) **That the highway should be stopped up.**

The Planning Applications Committee has agreed to vary the original planning requirement that required the construction of a dedicated footpath and cycle link. However, this was post construction and after highway rights were established.

This highway is in good condition, with street lighting. It provides a convenient pedestrian and cycle link for those who use it legitimately. Mitigation has been undertaken in terms of fencing to encourage and manage use of the path.

Consultation demonstrates that some residents are in favour of closure. However, there is evidence that some residents would not support this. The effects of closure are considered in a later factor.

There is a balance to be considered between legitimate use and the effects of unlawful activity. Stopping up the highway would satisfy certain parties whilst disadvantaging others. However, having satisfied the above factor it would be logical to assume that this factor is satisfied unless the legitimate use of the highway prevents such a conclusion.

- (c) **That premises adjoining or adjacent to the highway are affected by high levels of crime.**

The fact that a Designation Order has been made goes some way to establishing that DEFRA consider the area is affected by high levels of crime. The Designation Order is the enabling piece of legislation to allow a Special Extinguishment order to be processed. Comparing this situation to other Designation Orders the level of crime does not appear to be as high.

- (d) **The existence of the highway is facilitating the persistent commission of criminal offences.**

This footpath is different from others in the Borough. Where footpaths solely bound the rear and sides of residential properties and there is no other means of access then the association with crime is relatively straightforward. However, this path runs through an area of private landscaped area and is adjacent to the railway. Therefore, access to the rears of properties can be gained from numerous locations and not necessarily from the footpath. If the footpath was closed it would still be possible to access the rear of properties to facilitate crime and as such it cannot be established that the highway is facilitating the persistent commission of criminal offences.

There is no direct evidence linking the path to the crime and as such this factor cannot be satisfied. Closing the footpath may not have any direct effect on the levels of crime reported.

25. Before making the Order the Council must be satisfied that it is expedient to stop up the highway having regard to:

- (a) **Whether and, if so, to what extent, the order is consistent with any strategy for the reduction of crime and disorder prepared under section 6 of the Crime and Disorder Act 1998.**

Tackling anti-social behaviour and vehicle crime are core themes within Darlington's Crime, Disorder and Substance Misuse Reduction Strategy 2005–2008. The strategy aims to reduce crime and anti-social behaviour through a range of measures including prevention, early intervention, enforcement and rehabilitation. In the context of Ullswater Avenue partners have utilised a range of interventions across each of these themes to try and reduce residents concerns about crime and anti-social behaviour in the area.

- (b) **The availability of a reasonably convenient alternative route, or if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the highway rather than stopping it up.**

There is no doubt that the route provides a quiet convenient route for children and other pedestrians and cyclists in the area. If the footpath were closed those most inconvenienced in terms of the diversion would be the residents living at the head of the culs-de-sac. For example, a resident living at the head of Railway View is approximately 420m walking distance from the surgery on Smithfield Road. If the path were closed this distance would increase to 730m. This is the worst-case scenario but it could be a considerable inconvenience if a person has impaired mobility.

The pedestrian and cycle link forms part of Darlington's Cycle Network. The link provides a more direct alternative to Neasham Road for people needing to get to the Surgery at Smithfield Road, Dodmire Schools and the shops further up Neasham Road towards the town centre. Making such links is important if local people are to have real travel choices about their local journeys. In this case the longer route via Neasham Road may mean that some feel unable to walk or cycle to these destinations with potential negative impact on their ability to access local facilities, air quality, noise and traffic volumes from more car use.

A closure, or restriction of use, would be contrary to the ethos of the Second Local Transport Plan as well as Policy T37 in the Borough of Darlington Local Plan, 1997. The route also meets the criteria set out in Policy T39 for footpaths, so closure would work against the spirit of this policy.

In officers opinion a reasonably convenient alternative route is not available and thus this factor cannot be satisfied.

A diversion is physically possible around the rear of the properties. However, it is considered that this would result in the issues simply transferring to another location and providing easier access to both the railway and the rear of properties. This would be a more secluded route and with it an increased potential for crime. It is not recommended that this option be pursued.

**(c) The effect the extinguishment of the right of way would have, as respects land served by the highway, account being taken of the provisions as to compensation that may be payable.**

A special extinguishment order, if confirmed, gives the potential right to landowners (including homeowners and tenants) to compensation. Under section 28 of the Highways Act 1980 compensation is for the depreciation in value of any interest in land, or disturbance in the enjoyment of land, resulting from the closure or the works carried out to bring it into effect.

Such claims are difficult to quantify, but it is reasonable to assess the potential for compensation claims as modest. Generally, it is felt that the environment will be improved by the confirmation of a special extinguishment, and that there should be few (if any) such claims, which can be substantiated.

26. If this option was pursued and the pathway closed the local authority would incorporate the path into the landscaping. The local authority is the owner of the land on either side of the walkway, and the land would revert to it on closure.
27. Having examined the above factors, it is considered that there is significant risk and doubt in being able to link the evidence to the path and thus satisfying some of the factors. On balance, it is also considered that if a special extinguishment order was progressed, objections would be received. This would result in a public inquiry and the evidence available is not likely to secure a successful extinguishment. Officers therefore recommend against pursuing a Special Extinguishment Order.

## ***Evidence Required to Process a Gating Order***

28. Given the risk associated with a Special Extinguishment Order officers have explored the criteria and risks associated with a Gating Order.
29. In April 2005 the availability of Gating Orders were introduced by the enactment of the Clean Neighbourhoods and Environment Act 2005. There are no gating orders in existence in Darlington at present. This type of order can be extremely resource intensive to manage in particular where access is required by interested parties or the order specifies opening and closing at certain times of day. It is permissible to promote a gating order that allows a highway to be permanently gated. This would be a potential option for this footpath.
30. Gating Orders preserve the existence of the highway and as such the process and statutory tests applied have subtle differences to that of a Special Extinguishment Order. In reality a gating order can be revoked at anytime and a path can be reopened to general uncontrolled use should circumstances change.
31. The Act provides that the Council may make a gating order for any relevant highway for which they are highway authority if:
  - (a) **The premises adjoining or adjacent to the highway are affected either by crime or anti-social behaviour or a combination of the two; and**

The subtle difference here is the omission of the requirement for there to be 'high levels' of crime. The wording also introduces anti-social behaviour as a consideration.

An updated version of the anti-social behaviour statistics is appended as **Appendix C**.

Anti-social behaviour has also increased with 21 incidents in 2006/7. The main anti-social behaviour incidents involve rowdy/nuisance behaviour in the Ullswater Avenue and Railway View area. This accounted for 62% of the reported incidents.

Wardens attending these incidents mainly report no trace of nuisance upon their arrival making it extremely difficult to quantify the exact nature of the nuisance. However, the call is logged for statistical purposes. Rowdy nuisance could for instance, be young persons in the area talking loudly.

The presence of the path will encourage pedestrian movements between the developments and may be a convenient route for those involved in nuisance behaviour.

The wording of this factor would allow its application to numerous locations throughout the Borough. Given the crime and ASB at Appendix B & C then as such the evidence available would probably meet the requirements of this criterion.

- (b) **The existence of the highway is facilitating the persistent commission of criminal offences and/or anti-social behaviour; and**

This criterion is relaxed slightly as the introduction of anti-social behaviour as a consideration can be considered rather than just crime.

This factor has been considered in terms of crime and it has been established that it is not possible to link the existence of the highway to the persistent commission of crime.

Similarly, the evidence in relation to ASB cannot be directly linked to the existence of the footpath. However, it is acknowledged that the closure of the path would make the developments more secure cul-de-sacs and would remove pedestrian movements between the estates. The levels of reported ASB in cul-de-sacs off Ullswater Avenue and Railway View are considerably less. Reported incidents equate to about 1.75 per month.

(c) **It is expedient *in all the circumstances* to make the order for the purposes of reducing crime or anti-social behaviour.**

In this factor “all the circumstances” has been introduced. This has the meaning that the effect of making the order must be considered on the occupiers of adjoining or adjacent properties; on other persons in the locality; and in the case of a through route the availability of a reasonably convenient alternative route.

It has already been established that there is not a reasonably convenient alternative and closure would have an impact on those with mobility impairments, users of the cycle network and those persons from the locality who use it as a more direct alternative route to local facilities. It would also have an impact on those who live adjacent or adjoining the path who do not wish the path to be closed.

Those persons occupying properties adjacent or adjoining the path do not rely on the path for access to their properties. Residents would not be inconvenienced in terms of having to open and shut gates for access.

The guidance also advises that the lack of alternative routes should not prevent a gating order being made if the highway is in such a 'dangerous condition' that gating is in the best interests of 'all concerned'. In this instance the highway is not in a dangerous condition.

The guidance that accompanies the Act states that highways in general do not facilitate crime; the highway should be expressly shown to facilitate persistent crime or anti-social behaviour.

Based upon the anti-social behaviour statistics currently held by the Council in relation to anti-social activity within the whole area not just the footpath, there is insufficient information available to justify to decision to consider a Gating Order and it would not be able to satisfy the test that the Gating Order would resolve persistent Anti-Social Behaviour.

32. In addition guidance issued by Government says that:

- (a) **Account should be taken of the impact on health,**  
[e.g. encouraging more car journeys? Does this counterbalance the impact on health of reducing the stress of ASB?]

The potential impact on health and encouraging more cars journeys has been considered as part of the considerations of a special extinguishment order and closure of the path would impact on this. It is difficult to establish whether this counterbalances the stress being suffered by those affected by ASB.

- (b) **Special consideration should be given to impacts on those with impaired mobility**



[e.g. as to usability of alternative routes, but also in relation to operation of gates.]

The potential impact on mobility-impaired people has been considered as part of the considerations of a special extinguishment order and closure of the path would impact on this. The proposal would be a permanent gating situation; therefore the ability to open and close gates is not a consideration.

33. In terms of the legal process the above factors must be considered before making an order. In general the procedure is similar to that for a Traffic Regulation Order. The order would be advertised and objections invited. If objections were received they would be reported to Cabinet for consideration. Objections from certain bodies would trigger a public inquiry. This is different from a Special Extinguishment Order where any objection triggers a public inquiry.
34. Having examined the above factors, it is considered that there is significant risk and doubt in being able to satisfy some of the factors. On balance, therefore, it is considered that a gating order is not justifiable in terms of satisfying the factors and pursuing a Gating Order is not recommended.

### **Issues and Risk**

35. There are a series of issues and risks that Members should be aware of when considering the recommendation:

#### **(a) Objections**

Perhaps the highest risk associated with process and being successful in obtaining a Special Extinguishment is the risk of objections. The Council has already been notified that should an order be progressed some objections will be lodged. It is also possible that national and regional interests groups that the Council must statutorily consult with may object.

If we receive objections the Council does not have the power to proceed and close the path. In the first instance the Council can negotiate with objectors to see if they would be willing to withdraw them.

Objections to a Gating Order may be able to be considered by Cabinet. However, if an objection is received from certain bodies a public inquiry is triggered.

#### **(b) Evidence and Future Policy**

A snapshot of statistics has been carried out on other areas in the Borough. Some areas are experiencing twice the level of crime and ASB that are recorded at this location.

The Council receives many requests to close footpaths and each is considered on an individual basis. It is recommended that a policy document be introduced that outlines the Council's position and procedures with regard to Gating Orders and Footpath Closures for the purposes of crime prevention. This will ensure residents have a clear understanding of the processes and ensure the Council has clear processes for prioritising requests. It is important that precedents are not set before this policy is established.

**(c) All Engineering and Enforcement Measures Exhausted**

Significant efforts have been made in terms of landscaping, fencing and increased presence of the uniformed wardens. However, in previous case studies inspectors have resisted the Special Extinguishment if all measures have not been tried. The fact that CCTV is a recognised deterrent, but has been discounted as an option, may weaken the case should it proceed to public inquiry.

**(d) Diversion of Utility Apparatus**

In this instance this should not be an issue as the land is Council owned and utilities should not require diversion.

**(e) Cost**

The costs associated with pursuing a Special Extinguishment Order would be in the region of £35,000. This is made up of £2k for making and advertising the Extinguishment Order, potentially £15k for a local public inquiry and £18k for physical works to remove the path and landscape the area.

There is a potential risk that compensation claims could be received. These are unquantifiable at this stage, but there could be a need to release additional capital resources to cover claims.

The costs associated with pursuing a Gating Order would be in the region of £27k. This is made up of £2k for making and advertising the extinguishment order and £10k for physical works to remove the lighting and provide secure gates at either end. There is a risk that this process could result in a public inquiry if certain organisations specified in the regulations object. Therefore, a provisional amount of £15k for a local public inquiry has been included.

There is no budget available for either option and as such Cabinet would need to release additional capital resources if either of the options were pursued.

**(f) Land**

In this case the land is Council owned and not an issue.

**(g) Emergency Access**

Originally the link was required as an alternative emergency route. Previous advice in Design Bulletin 32 (DB32 - a DfT/DoE guidance document) suggested that a cul-de-sac serving more than 50 dwellings should have a link available for use by emergency vehicles. DB32 has now been superseded by the Manual for Streets (DfT). There is now a less numbers driven approach and fire services would consider each application based on a risk assessment for each individual site. For this site given that the approach roads either side of the footpath are relatively short it is now unlikely that the footpath would be required as an emergency access. In terms of a gating order the provision would be protected to some extent.

## **Legal Implications**

36. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

## **Section 17 of the Crime and Disorder Act 1998**

37. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This report sets out the response to crime and anti-social behaviour in this part of town and demonstrates that the Council takes a holistic and proactive approach to addressing residents concerns regarding crime and anti-social behaviour.

## **Council Policy Framework**

38. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

## **Decision Deadline**

39. For the purpose of the 'call-in' procedure this does not represent an urgent matter.

## **Conclusion**

40. There are a number of issues for Members to be aware of when considering how to proceed and whether on balance the required factors have been satisfied that enable either a Special Extinguishment Order or a Gating Order to be progressed.
41. While DEFRA have been satisfied that the area meets the criteria for a Designation Order, there are also residents with an opposing view, who use the path legitimately as a convenient route and this is likely to result in objections and potentially a public inquiry.

## **Recommendation**

42. It is therefore recommended that:
- (a) A Special Extinguishment Order is not progressed.
  - (b) A Gating Order is not progressed.
  - (c) Crime and Anti-Social Behaviour at this location continue to be monitored to identify any changes in pattern and volume to ensure appropriate action be taken.
  - (d) A document be developed that establishes the Council's policy and procedures with regard to Gating Orders and Footpath Closures for the purposes of crime prevention.

## **Reasons**

43. The recommendations are supported by the following reasons:

- (a) It is the opinion of officers that the evidence is not strong enough when considering the statutory tests to justify either a Special Extinguishment Order or a Gating Order.
- (b) To provide a clear framework and approach to footpath closures for the purposes of crime prevention.

**Cliff Brown**  
**Director of Community Services**

## **Background Papers**

Information and correspondence held on file.

Dave Winstanley : Extension 2752

## Legislative Background

In legislative terms prior to 2000 crime prevention was not a consideration when considering the closure of footpaths. The only options available to close a highway were:

(a) **Town and Country Planning Act 1990**

The Town and Country Planning Act 1990, allows for the closure of a footpath, if it is necessary to allow development (approved by a valid planning consent) to take place. This essentially means that the development concerned, must actually build over the path itself, a simple change of use from say path to garden would not suffice, as it is, in law at least, quite compatible for a path to run through a garden, therefore the criteria would not be met.

(b) **Highways Act 1980**

The Highways Act 1980 is the principal piece of legislation that allows for the closure of highways. The powers for closure are strictly defined by this legislation. Before The Countryside and Rights Of Way Act 2000 was implemented, closures could only be made, if it could be demonstrated that the highway concerned was not needed or was unnecessary for public use. Whilst this may have been a somewhat subjective decision to make, it was clear that factors such as criminal, or anti-social behaviour, could not lawfully have been taken into account. If a route was heavily used by legitimate pedestrian traffic, it was unlikely that the legislative criteria could have been met in order to close the path to prevent its misuse at other times.

The inability to address crime and anti-social behaviour through existing legislation resulted in new legislation being introduced to give local authorities power to process closures. The options now available in terms of Crime Prevention to the Council are:

(a) **Countryside and Rights of Way Act 2000 - Closure for Crime Prevention**

The Countryside and Rights of Way Act 2000 amended the Highways Act 1980, by introducing new powers to close and divert public rights of way for the purposes of crime prevention. There are however, strict criteria that must be satisfied before such Orders can be made. This is a two stage process:

(i) **Designation Order**

Firstly, following an application from the highway authority, the Secretary of State must designate the area where the paths are located, as an area within which the new provisions may be used. For such an application to be successful, the Highway Authority, must persuade the Secretary of State that the area suffers from high incidences of crime.

It should be stressed that the designation of an area, as described above, does not, in any way, imply that any subsequent extinguishment orders will be successful. It is still necessary to fulfil all of the other criteria associated with a Special Extinguishment Order.

## **(ii) Special Extinguishment Order**

An extinguishment order can only be processed once a Designation Order is in place. Even then, before an Order can be made, the Authority must be satisfied, having taken into account the factors listed below, that it is expedient for the purposes of preventing or reducing crime which would otherwise disrupt the life of the community, that the highway should be stopped up, that premises adjoining or adjacent to the highway are affected by high levels of crime, and that the existence of the highway is facilitating the persistent commission of criminal offences.

Even if these criteria can, by the production of evidence, be satisfied, an Order cannot necessarily come into effect. Before an Order can be confirmed/take effect, the Council must also be satisfied that it is expedient to stop up the highway having regard to:

- Whether and, if so, to what extent, the order is consistent with any strategy for the reduction of crime and disorder prepared under section 6 of the Crime and Disorder Act 1998.
- The availability of a reasonably convenient alternative route, or if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the highway rather than stopping it up.
- The effect the extinguishment of the right of way would have, as respects land served by the highway, account being taken of the provisions as to compensation that may be payable.

## **(b) Clean Neighbourhoods and Environment Act 2005 - Gating Orders**

In April 2005 the Clean Neighbourhoods and Environment Act 2005 was brought in to try and address difficulties with the Countryside and Rights of Way Act 2000 by introducing 'Gating Orders'. However, a substantial proportion of these 'alleys' are public highways protected by a wealth of legislation and case law, which has developed over a number of centuries to protect the rights of highway users. The maxim 'once a highway, always a highway' has not become a common phrase without good reason.

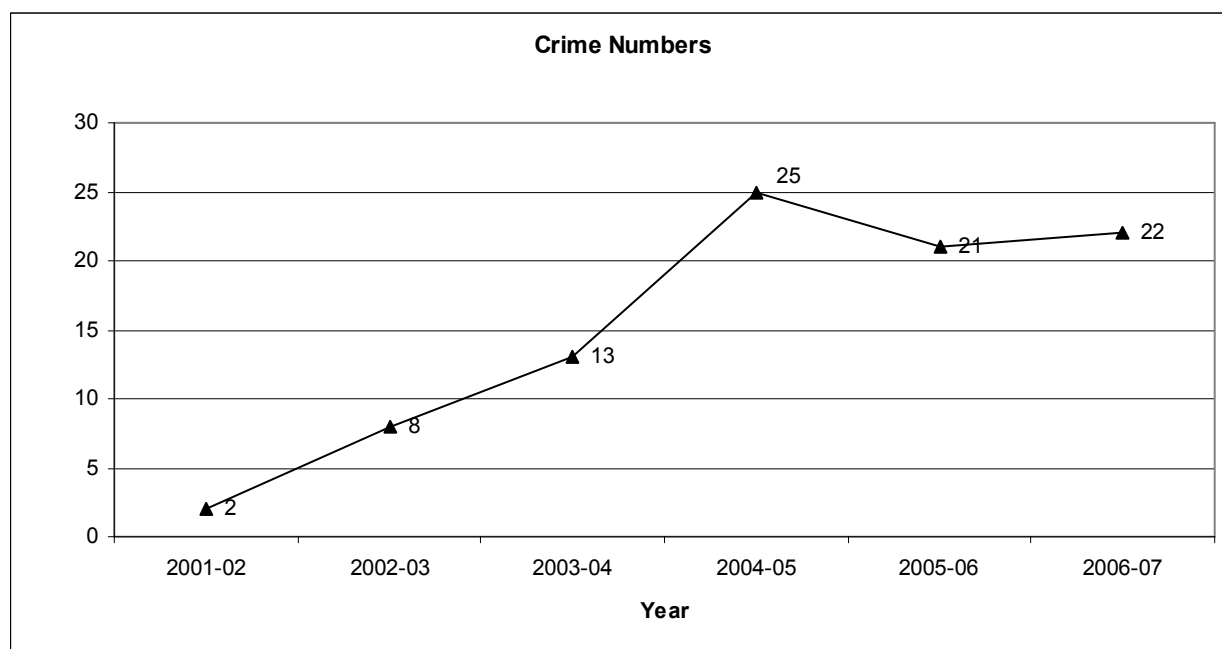
The Clean Neighbourhoods and Environment Act 2005 amended the Highways Act 1980 by adding Section 129A – G to introduce a new order called a 'Gating Order'

The new power has been specifically designed to accommodate alley gating situations and:

- (i) does not require a designation order;
- (ii) can be implemented if there is crime and anti-social behaviour;
- (iii) enables the local authority to continue with the gating order even if objections are received (if in the best interests of the local community); and
- (iv) allows the local authority to hold a public inquiry in certain circumstances to be specified by regulation; and allows for variation and revocation of Gating Orders.

## Crime Analysis

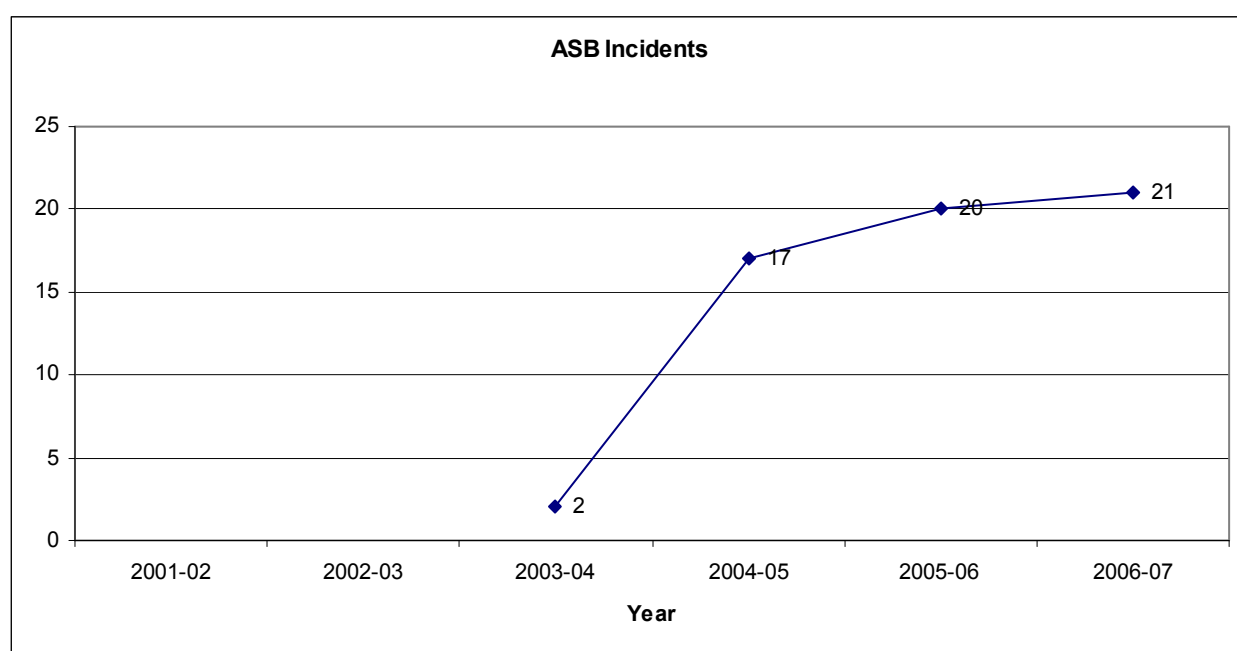
Crime Type	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07
Theft from Motor Vehicle	1	3	5	6	5	8 (36.4%)
Burglary Dwelling	1		1		1	2 (9.1%)
Theft Other		4	1	4	5	0
Damage to Motor Vehicle		1	2	7	1	3 (13.6%)
Violence Against the Person			1	1	3	0
Burglary Other			3	2	3	3 (13.6%)
Criminal Damage				3	0	3 (13.6%)
Theft of Motor Vehicle				2	2	2 (9.1%)
Drugs						1 (4.6%)
Vehicle Interference					1	
<b>Total</b>	<b>2</b>	<b>8</b>	<b>13</b>	<b>25</b>	<b>21</b>	<b>22</b>



Crime Location	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07
Pudsey Walk (6 properties in the street)				1	4	1
Keswick Grove (13 properties in the street)		3	4	3	1	3
Ullswater Avenue (31 properties in the street)	1	2	7	9	7	6
Railway View (20 properties in the street)				7	8	9
Ambleside Walk (8 properties in the street)	1	3	2	5	1	3
<b>Total</b>	<b>2</b>	<b>8</b>	<b>13</b>	<b>25</b>	<b>21</b>	<b>22</b>

## Anti-Social Behaviour Analysis

ASB Incidents	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07
Complaint Vehicle			1	3	4	6
Youths Causing Annoyance			1	13		
Complaint Community Problems				1		
Rowdy/Nuisance Behaviour					14	13
Street Drinking					1	
Animals Anti-Social Behaviour						1
Noise						1
Neighbours					1	
<b>Total</b>			2	17	20	21



	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07
Pudsey Walk (6 properties in the street)					3	1
Keswick Grove (13 properties in the street)			1	3	1	1
Ullswater Avenue (31 properties in the street)			1	8	9	12
Railway View (20 properties in the street)				5	7	7
Ambleside Walk (8 properties in the street)				1		
			2	17	20	21