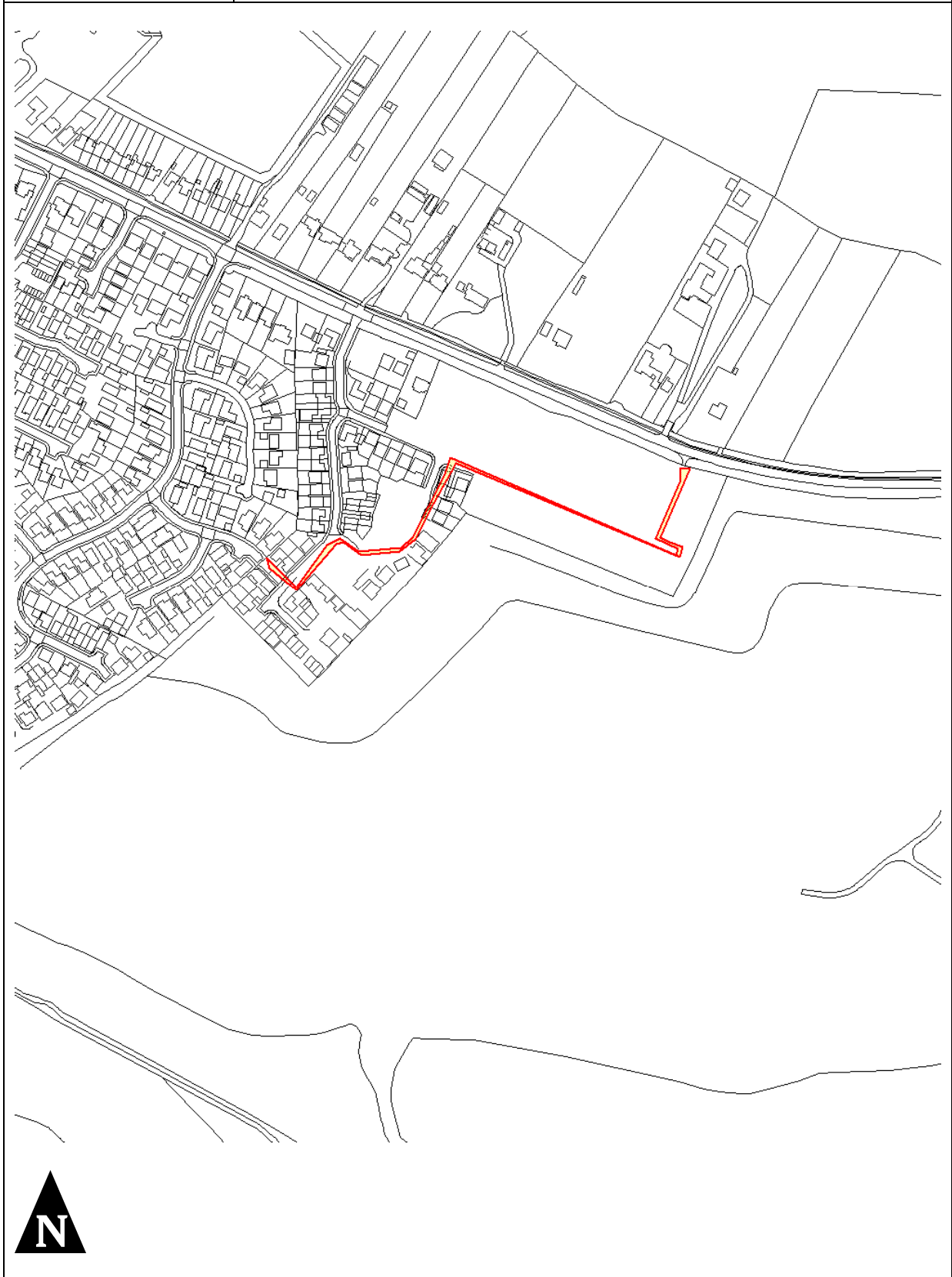


Planning Report for 2012/1485

Location :	Land Surrounding 315 Spring Lane Mapperley
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NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site
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APPLICATION NO: 2012/1485

LOCATION: Land Surrounding 315 Spring Lane Mapperley
Nottinghamshire

PROPOSAL: Divert Carlton Footpath No 1

APPLICANT: Taylor Wimpey East Midlands

AGENT:

Purpose of Report

This item is brought to Committee to make a diversion to Carlton Footpath 1, pursuant to Section 257 of the Town and Country Planning Act 1990, in respect to land surrounding 315 Spring Lane, Mapperley.

Site Description

The application relates to Carlton footpath 1 located on land at surrounding 315 Spring Lane, Mapperley. The affected part of Footpath 1 measures approximately 350 metres in length.

Relevant Planning History

Outline Planning Permission for a residential development was granted in September 2010 (Planning ref. 2007/0748).

Subsequently reserved matters were approved in March 2011 for the erection of 147 dwellings under planning ref: 2010/1022. The development of the site for 147 dwellings under planning ref.2010/1022 was subsequently commenced.

As part of the reserved matters approval an area of Public Open Space was approved as well as a 'green link' footpath between former colliery land to the south east and Ashwater Drive to the north west boundary.

Proposed Development

The Borough Council has received an application for the diversion of Carlton Footpath 1 required to allow the implementation of the approved residential development.

The proposed diversion would result in Footpath 1 taking a route mainly aligned with the new highway through the residential development 'Lime Tree Gardens'. Towards the south of the site the realigned footpath would follow the footpath link on the approved planning layout which sits between Plots 19, 20 and 21 on the development and joins the north east side of Ashwater Drive adjacent to the boundary with no.11 Ashwater Drive.

Consultation

Notts County Council (Rights of Way) – Raises an issue where the definitive footpath links to Ashwater Drive. Request the footpath emerges on the south west side of

Ashwater Drive rather than having a dog leg to the east side of Ashwater Drive. The line of the footpath proposed in this application raises concerns as it is directly in line with the vehicular access drive to no.11 Ashwater Drive. The Rights of Way Office would support the footpath link from the development remaining on the west side of Ashwater Drive as this is the legal line and is safer for users as it does not conflict with any private vehicular access.

Notts County Council (Highways) – Note from a site visit that the footpath in question has not been constructed as per the proposed plan (the footpath has been constructed to meet the west side of Ashwater Drive). The Highway Officer has no objection to the footpath as constructed as it is unlikely to cause any safety concerns for no.11 Ashwater Drive. The Highway Officer refers to the comments of their Rights of Way colleague with regards to the line of the footpath as proposed in this application.

Notts Area Ramblers Association – Want the diversion to be a green route and not as suggested at present which is through the development site along footways. Want the diversion to take the cycle route into the country park and down a stream to Spring Lane, a few metres away from the original start point. Would welcome a delay to allow the ownership of the former colliery site to be finalised.

Mark Spencer MP – Strongly objects to the application on the following grounds:

1. Health and Safety – the footpath needs to exit onto Ashwater Drive on the side of the pavement where there is no crossing traffic from resident's drives over the footpath.
2. This is clearly a retrospective planning application and is a small but significant change to the original planning application.

Adjoining neighbours on Ashwater Drive have been notified – No written representations have been received.

Planning Considerations

Section 257 of the Town and Country Planning Act 1990 states that a competent Authority may by order authorise the stopping up or diversion of any footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission. The procedure for doing so is set out in Schedule 14 of the Town and Country Planning Act 1990.

S7.15 of the Rights of Way Circular (1/09) advises that in the making of an order for the diversion of a Public Right of Way to enable approved development:-

‘The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or

are near the existing highway should be weighed against the advantages of the proposed order.'

S7.8 of the Rights of Way Circular (1/09) states: -

'In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estates paths through landscaped or open space areas away from vehicular traffic'.

In my opinion the main planning considerations in the determination of this application are whether there would be an unacceptable impact on the locality in terms of access and movement for walking members of the public through the new residential development 'Lime Tree Gardens' and whether the proposed alternative route is acceptable in terms of avoiding estate roads where possible and the visual environment in which the route takes.

On completion of the development, I am mindful that the diverted footpath would still be provided within the site in close proximity to the route of the existing footpath enabling walking members of the public a right of way similar to route which is available at present. The proposed diversion would allow for the footpath to be retained and the residential development to be completed.

I note that the proposed route for walking members of the public is largely aligned with the new estate road. However the route does sit adjacent to the public open space on the development at its junction with Spring Lane and a small section of the footpath towards the south of the site, where the footpath adjoins Ashwater Drive, would be within an area incorporating soft landscaping avoiding areas used by vehicular traffic.

I note the comments of the Ramblers Association. The approved planning layout does include a further section of footpath within a landscaped area which links through to the former colliery land to the south and the proposed route of the footpath sits adjacent to this link. Planning permission has recently been granted for the change of use of the former colliery land into a country park (Planning ref.2012/1456). This link therefore provides the opportunity to provide a link into the country park as plans for the country park are developed. However, the applicant has shown the only solution presently available to them given the adjoining land is not within their control.

I note the concern raised by the local MP and the Highway Officer and Rights of Way Officer at the County Council relating to the section of footpath which adjoins Ashwater Drive. I am mindful that the proposed position of the footpath, to meet with the north east side of Ashwater Drive adjacent to the boundary with no.11 Ashwater Drive, is the same position as was proposed on the approved layout plan on Planning Application no.2010/1022. During consultation on the planning application, no objections were raised by the Highway Authority to the position of the footpath. Whilst the footpath would meet Ashwater Drive adjacent to the driveway of no.11 Ashwater Drive, the potential situation of anyone emerging from the section of footpath on the new development onto Ashwater Drive adjacent to this driveway, is similar to that on any residential street with the footpath having an interface with driveways serving residential properties. I do not consider that the situation in this instance would be so different and raise such significant highway safety issues to

necessitate the developer amending the application to divert the footpath and subsequently the approved planning layout in this instance.

I am also mindful that prior to the development of land surrounding 315 Spring Lane, pedestrians and cyclists would have emerged from a footpath on undeveloped land onto Ashwater Drive and would possibly therefore have been less aware of vehicles exiting the driveway at no.11 Ashwater Drive. However the development of this neighbouring land now means the footpath would already have an interface with driveways serving residential properties on the new residential development and the driveway at no.11 Ashwater Drive would be no different.

Notwithstanding the above I have contacted the developer to ascertain whether they would consider locating the section of footpath which joins Ashwater Drive to the opposite boundary away from the boundary with no.11 Ashwater Drive. The developer has confirmed that they wish to divert the footpath as per the position in this application which is the same as the previously approved planning layout. The developer has sold all the plots on the new development which sit adjacent to this section of path and the developer has advised they are therefore not in a position to provide another route.

I recommend that the Borough Council's Solicitor and Monitoring Officer be authorised to make the necessary order for the diversion of Carlton footpath 1 as it is necessary to do so in order to allow an authorised development to be carried out whilst ensuring the footpath is provided without any disadvantage or loss to members of the public.

Recommendation: That Member's authorise the Council Solicitor and Monitoring Officer to make an order that Carlton footpath 1 be diverted in accordance with the plan submitted with the application.