

**Application Number:** 2014/1149  
**Location:** Land Surrounding 315 Spring Lane Mapperley Nottinghamshire



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## **Report to Planning Committee**

<b>Application Number:</b>	2014/1149
<b>Location:</b>	Land Surrounding 315 Spring Lane Mapperley Nottinghamshire
<b>Proposal:</b>	Diversion of Carlton Footpath No.1 Mapperley. The footpath proceeding from a point SK6069 4451, to a point SK6102 44 59, identified by the bold continuous line on plan TWY007/LOCO3 C.
<b>Applicant:</b>	Taylor Wimpey East Midlands Ltd
<b>Agent:</b>	
<b>Case Officer:</b>	David Gray

### **Purpose of Report**

This item is brought to Committee to request authorisation from Planning Committee to make an order diverting Carlton Footpath No.1, pursuant to Section 119 of the Highways Act 1980, 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) The principle to divert Carlton Footpath no.1 was established at outline planning permission stage.

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. The Rights of Way Officer was consulted as part of the application and concluded that the proposed layout was acceptable in terms of the public footpath (Carlton Footpath no.1) which passes through the site.

An application to divert Carlton Footpath No.1 was brought to Committee on 8<sup>th</sup> May 2013 to make an order to divert the footpath to enable an authorised development to commence (under the Town and Country Planning Act 1990, s257). The Committee resolved to reject

the proposed diversion on the grounds that it would be contrary to public safety and would not be an accessible route which would promote public transport. The application was subsequently withdrawn.

A further application to make an order divert the footpath was brought to the Committee in July 2013; again this was to divert to enable an authorised development to commence under the Town and Country Planning Act 1990, s257). The Committee resolved to approve the order. On receipt of representation under the provisions of the act the application was referred to the Planning Inspectorate. The order could not be confirmed as the development was considered to be substantially complete.

In July 2014 (ref: 2014/0431) an application for permission to retain the as-built alignment of the footpath connecting Taylor Wimpy development onto Ashwater Drive. In the opinion of the Borough Council the retention of the open space and footpath link would be acceptable from a highway safety viewpoint and would have no undue impact on the amenities of nearby residential properties.

### **Proposed Route**

The Borough Council has received a revised application for the diversion of Carlton Footpath 1 under the Highways Act 1980, s119.

The proposed diversion would result in Footpath 1 taking a route mainly aligned with the new highway through the residential development 'Lime Tree Gardens'. The footpath would exit Ashwater Drive at Grid Reference: SK6069 44 51 and would follow the footpath link on the approved planning layout through the development (Shown by a dashed line) and would enter onto Spring Lane at Grid Reference: SK6102 44 59. The route would provide the same level of access to public transport as the previous route.

The plans also show a green footpath link to the future Country Park which does not form part of this application.

### **Consultations**

Nottinghamshire County Council (Highway Authority) – There are no Highway Authority Objections.

Nottingham County Council (Rights of Way) – The proposed diversion is acceptable.

Ramblers Association – The ramblers association have requested that the footpath is not diverted along a footway through an estate but be diverted along a footway through the Gedling Country Park along a planned cycle/walking route.

### **Planning Considerations**

Members are reminded that the previous two applications to divert the footpath have been made under the Town and Country Planning Act referenced in the Planning History above. The proposed footpath diversion (ref: 2014/0431) could not be confirmed as it was the opinion of the inspector that the development had been substantially completed. Instead an application needed to be submitted under the Highways Act 1980 to allow for the diversion of a footpath.

Section 119 of the Highways Act 1980 allows for a diversion of a footpath where it is in the interests of the owner or occupier of the land and it is expedient that the line of the path should be diverted. Once the order is made, the diversion is advertised and later confirmed

by the Council who made the order (if there are no objections) or the Secretary of State (if there are objections). An order under this section is referred to as a 'public path diversion order'.

The diversion order should not alter the start/end points onto the public highway other than in specified circumstances. These do not apply since the route through the development starts at SK6069 44 51 and ends at SK6102 44 56, as before. I note that the spur from the footpath to the Country Park (the 'green link') is not included in this application.

I would note that the proposed development and new footpath route was considered at reserved matters (ref: 2010/1022). Given that the approved development has been substantially complete it is my view that it is in the interest of the owner of the land that the line of the path or way, should be diverted by way of 'public path diversion order' made by the Council. Given that the route of the current footpath runs through properties already built (or about to be built) it is also expedient (i.e. suitable, appropriate) that the footpath be diverted.

I note that the revised route for the footpath (approved under planning application reference: 2014/0431) would have the same access and egress points onto Ashwater Drive and Spring Lane as Carlton Footpath no.1. Whilst I note that the revised route would still cross the highway adjacent to the footpath link to Ashwater Drive the crossing point is to the end of the development on a straight section of road with good visibility where vehicle movements would be at a minimum. I would also note that the route continues onto Ashwater Drive where the same level of pedestrian vehicle conflict would be present for members of the public walking to Spring Lane. I note that the revised footpath route would incorporate an alternative section that redirects the footpath away from the vehicle driveway access to no.11 Ashwater Drive. As already noted the new route would offer the same level of access to public transport as the previous footpath. As mentioned above the principle to divert Carlton Footpath no.1 was established and accepted at reserved matters stage in relation to application reference 2010/1022. I am therefore satisfied that the diversion would not be substantially less convenient to the public in consequence of the diversion

Whilst I note the comments from the Ramblers Association, the Country Park falls outside of the application site and is not in control of the developer. I also note that the diversion does incorporate a pedestrian link to the Country Park that could be used for walking members of the public. I am satisfied that the proposed diversion would not have a significant impact on the public enjoyment of the path and the new pedestrian link to Gedling Country Park would give walking members of the public convenient access to the Country Park (once completed).

In conclusion I am satisfied it is in the interests of the owner of the land and expedient that Carlton Footpath No 1 should be diverted, and that the proposed route does not alter the start/end point of the path. In addition, on the information to hand, I am satisfied that the proposed diversion would not be substantially less convenient to the public. However, this last point will have to be considered further when the Order comes forward for confirmation (whether by the Council or the Planning Inspectorate).

Members are reminded that on making the order to divert Carlton Footpath 1 notification of the order must be posted in the Local Press, site notices posted, statutory bodies consulted and neighbouring properties must be consulted. If no objections are received by any statutory bodies or neighbouring properties then the application must be presented, further to another report, to committee to confirm the order. If objections are received following consultation the Borough Council can attempt to settle concerns and get them withdrawn. If the concerns cannot be addressed by the Borough Council and the objections withdrawn, then the matter would be referred to the Secretary of State for determination.

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 in the interests of the owner and expedient to do so.

**Recommendation:**

**That Members 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.**