

## ITEM FOR DECISION

**Application No:** 2013/0611 (Footpath Diversion)  
**Location:** Land Surrounding 315 Spring Lane  
**Proposal:** Footpath diversion as shown on drawing TWY007/LOC03 Revision B, diversion through new development

### **Purpose of Report**

This item is brought to Committee to request authorisation from Planning Committee to make an order and carry out the necessary consultations to consider a diversion to Carlton Footpath No.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) 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. 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 The application was subsequently withdrawn.

## **Proposed Route**

The Borough Council has received a revised application for the diversion of Carlton Footpath 1 which seeks to address the issues raised by Planning Committee on 8<sup>th</sup> May 2013.

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. The revised route crosses the highway adjacent to the footpath link to Ashwater Drive. The revised footpath then takes an alternative route along the end of the cul-de-sac away from no.11 to create access on the opposing side of the cul-de-sac. 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.

## **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 vehicle traffic'.

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.

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 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 necessary to do so in order to allow an authorised development to be carried out.

**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.**

Date Recommended: 1st July 2013