
Case Number	17/04771/FUL (Formerly PP-06501135)
Application Type	Full Planning Application
Proposal	Application under Sec 73 to remove condition 21. provision of shared pedestrian/cycle path imposed by planning approval no. 15/00158/OUT
Location	Cowmouth Farm 33 Hemsworth Road Sheffield S8 8LJ
Date Received	21/11/2017
Team	South
Applicant/Agent	G9 Design
Recommendation	Grant Conditionally

Time limit for Commencement of Development

Approved/Refused Plan(s)

2. The development must be carried out in complete accordance with the following approved documents:

1612 -09 Site Location Plan
1612 -62 Proposed Site Plan

Reason: In order to define the permission.

Pre Commencement Condition(s) – ('true conditions precedent' – see notes for definition)

4. No development shall commence until details of the means of ingress and egress for vehicles engaged in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the arrangements for restricting the vehicles to the approved ingress and egress points. Ingress and egress for such vehicles shall be obtained only at the approved points.

Reason: In the interests of protecting the free and safe flow of traffic on the public highway it is essential that this condition is complied with before any works on site commence.

5. No demolition and/or construction works shall be carried out unless equipment is provided for the effective cleaning of the wheels and bodies of vehicles leaving the site so as to prevent the depositing of mud and waste on the highway. Full details of the proposed cleaning equipment shall be approved in writing by the Local Planning Authority before it is installed.

Reason: In the interests of the safety of road users.

6. No development shall commence until full details of measures to protect the existing trees, shrubs and hedge/s to be retained, have been submitted to and approved in writing by the Local Planning Authority and the approved measures have thereafter been implemented. These measures shall include a construction methodology statement and plan showing accurate root protection areas and the location and details of protective fencing and signs. Protection of trees shall be in accordance with BS 5837, 2012 (or its replacement) and the protected areas shall not be disturbed, compacted or used for any type of storage or fire, nor shall the retained trees, shrubs or hedge be damaged in any way. The Local Planning Authority shall be notified in writing when the protection measures are in place and the protection shall not be removed until the completion of the development.

Reason: In the interests of protecting the identified trees on site. It is essential that this condition is complied with before any other works on site commence given that damage to trees is irreversible.

7. No development shall commence until a report has been submitted to and approved in writing by the Local Planning Authority identifying how a minimum of 10% of the predicted energy needs of the completed development will be obtained from decentralised and renewable or low carbon energy. Any agreed renewable or low carbon energy equipment, connection to decentralised or low carbon energy sources shall have been installed before any part of the development is occupied and a post-installation report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed. Thereafter the agreed equipment, connection or measures shall be retained in use and maintained for the lifetime of the development.

Reason: In order to ensure that new development makes energy savings in the interests of mitigating the effects of climate change and given that such works could be one of the first elements of site infrastructure that must be installed it is essential that this condition is complied with before the development commences.

Other Pre-Commencement, Pre-Occupancy and other Stage of Development Condition(s)

11. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with.

12. Details of a suitable means of site boundary treatment shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced, or an alternative timeframe to be agreed in writing by the Local Planning Authority and the shall not be used unless such means of site boundary treatment has been provided in accordance with the approved details and thereafter such means of site enclosure shall be retained.

Reason: In the interests of the visual amenities of the locality.

13. The surface water discharge from the site shall be reduced by at least 30% compared to the existing peak flow and detailed proposals for surface water disposal, including calculations to demonstrate the reduction, must be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, or an alternative timeframe to be approved in writing by the Local Planning Authority. In the event that the existing discharge arrangements are not known, or if the site currently discharges to a different outlet, then a discharge rate of 5 litres/hectare should be demonstrated. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to mitigate against the risk of flooding.

14. Bat boxes, bat access tiles and bird boxes shall be provided to any retained buildings prior to occupation in accordance with details to have first been submitted to and approved in writing by the Local Planning Authority. Thereafter these features shall be retained.

Reason: To protect opportunities for wildlife.

Other Compliance Conditions

16. Any remediation works recommended in the Phase II Intrusive Site Investigation Report shall be the subject of a Remediation Strategy Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to the development being commenced. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Local Planning Authority policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with.

17. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: In order to ensure that any contamination of the land is properly dealt with.

18. Surface water and foul drainage shall drain to separate systems.

Reason: To ensure satisfactory drainage arrangements.

19. No piped discharge of surface water from the application site shall take place until surface water drainage works including off-site works have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory drainage arrangements.

24. Unless otherwise indicated on the approved plans no tree, shrub or hedge shall be removed or pruned without the prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality.

1. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

2. You are advised that any information which is subject to the Environmental Information Regulations and is contained in the ecological reports will be held on the Local Records Centre database, and will be dealt with according to the Environmental Information Regulations (EIR). This will be subject to the removal of economically sensitive data. Information regarding protected species will be dealt with in compliance with the EIR. Should you have any queries concerning the above, please contact:
Richard Harris
Ecology Manager
Sheffield City Council
Meersbrook Park
Brook Road
Sheffield
S8 9FL
Tel: 0114 2734481
E-mail: richard.harris@sheffield.gov.uk
3. The applicant is advised that the carrying out of any works to the existing trees, hedges or shrubs within the site, which are works authorised by this permission will constitute the commencement of work on the development. The unauthorised removal of any tree, hedge or shrub or any other works which threaten their future vigour and quality, may result in breach of condition action. It could also mean that the development is materially different from that which has permission and may be liable to enforcement action and the submission of a new planning application may be required.
4. The applicant is advised that noise and vibration from demolition and construction sites can be controlled by Sheffield City Council under Section 60 of the Control of Pollution Act 1974. As a general rule, where residential occupiers are likely to be affected, it is expected that noisy works of demolition and construction will be carried out during normal working hours, i.e. 0730 to 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturdays with no working on Sundays or Public Holidays. Further advice, including a copy of the Council's Code of Practice for Minimising Nuisance from Construction and Demolition Sites is available from Environmental Protection Service, 5th Floor (North), Howden House, 1 Union Street, Sheffield, S1 2SH: Tel. (0114) 2734651, or by email at epsadmin@sheffield.gov.uk.
5. As the proposed development abuts the public highway you are advised to contact the Highways Co-ordination Group prior to commencing works:

Telephone: 0114 273 6677
Email: highways@sheffield.gov.uk

They will be able to advise you of any pre-commencement condition surveys, permits, permissions or licences you may require in order to carry out your works.

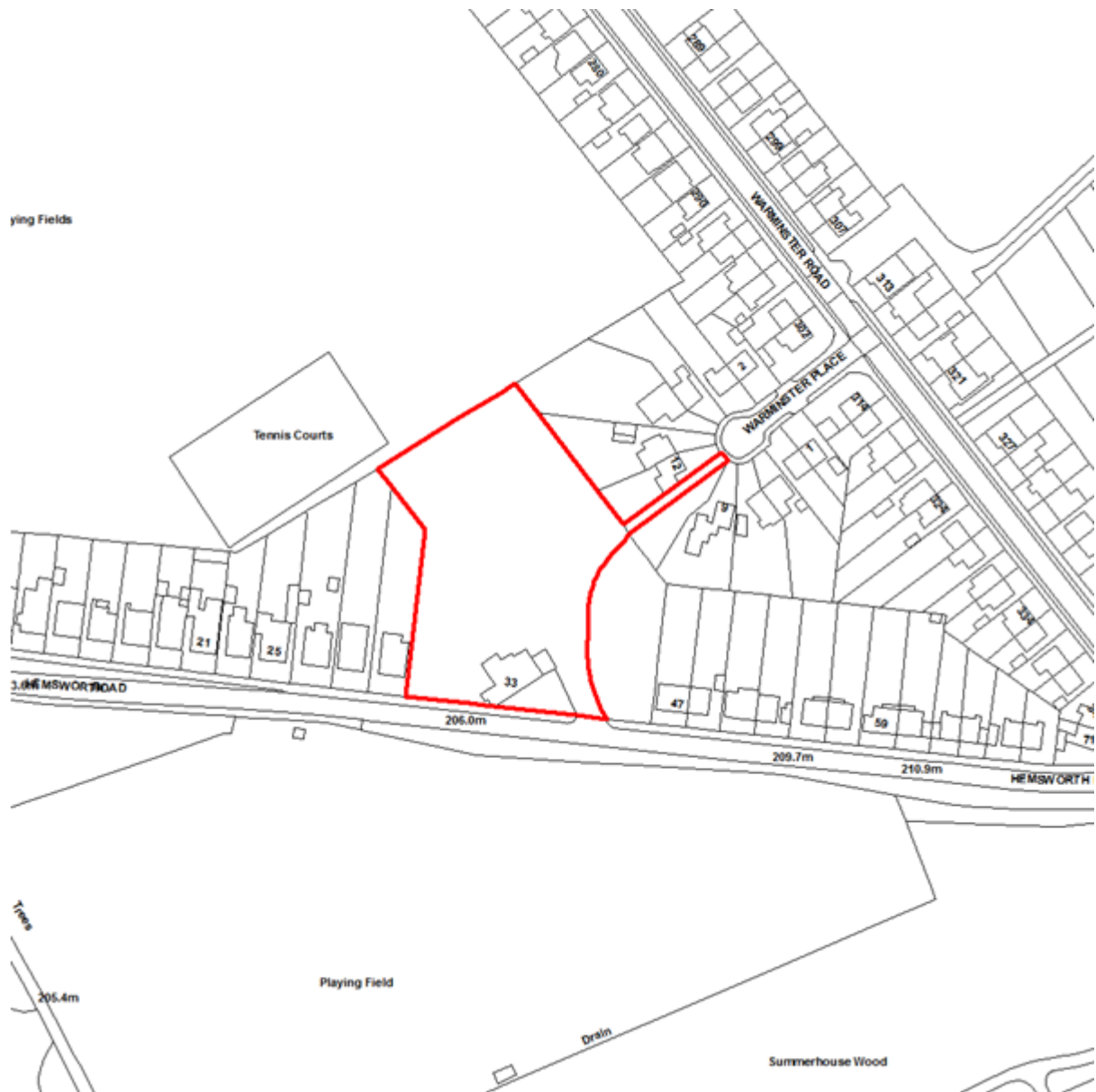
6. For the avoidance of doubt in line with National Planning Practice Guidance:

Condition Nos. 3,4,5,6,12,13, 19 and 20 have been included on this Decision Notice for completeness and because they remain in force. It may therefore be necessary for more information to be provided in relation to these conditions and for the conditions to be fully discharged. Please note the repeat conditions are listed with the same numbering as the original decision notice - 15/00158/OUT.

My records show that some of the previously imposed planning conditions have not been discharged (conditions 7, 11 and 14) and therefore you may be currently operating in breach of the imposed planning conditions. You are therefore strongly advised to look into this matter at your earliest convenience.

7. The Local Planning Authority has dealt with the planning application in a positive and proactive manner in accordance with the requirements of the National Planning Policy Framework. The Local Planning Authority considered that it wasn't necessary to have detailed discussions in this case.

Site Location



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LOCATION AND PROPOSAL

The application relates to the site of the former 'Cowmouth Farm' Co-Operative Dairy in Hemsworth Road which ceased operating in 2008. The site area is currently being developed for residential use with 13 new build dwellings and a conversion of the farmhouse that pre-dated the formation of the dairy/depot.

To the west of the site on Hemsworth Road is a row of detached bungalows with hipped roofs. To the east of the site in Hemsworth Road is a row of semi-detached two storey dwellings. Similar detached and semi-detached dwellings adjoin the site to the north east in Warminster Place.

The rear boundary of the site adjoins former playing fields owned by Sheffield Hallam University. Access to the playing fields is taken from further west along Hemsworth Road. Graves Park is on the opposite side of Hemsworth Road. The boundaries to the north (playing fields) and west (bungalows) are screened by intermittent semi-mature trees and shrubs.

There is a general fall in land levels across the site with an initial fall away from Hemsworth Road of the order of one and half metres. The site then levels to a degree before falling at the boundaries to the north and west. Exact natural levels are difficult to determine due to previous development and the site levels have been lowered on the eastern part of the site in order to reduce the differential with curtilages of houses on Warminster Place.

The site had previously remained vacant for a number of years.

It is clear from pictorial, map and anecdotal evidence that a pedestrian desire line has existed passing from the Warminster Place cul-de-sac onto Hemsworth Road for several decades. This track/pathway appears to have been accommodated by previous owners of the site and has been used both as a short cut and by dog walkers and the like for a significant period of time. However this is not a public right of way and no such right exists at present.

This is an application seeking to remove condition 21 (requiring the provision of the path on the 2015 outline permission). Should Committee be minded to approve this application it is to be expected that a further Section 73 application will be received by the Local Planning Authority seeking to alter the recently approved Reserved Matters plans in order to remove the path from those plans.

The relevance of the path to the planning history is explored below

RELEVANT PLANNING HISTORY

This history relates to the attempts since 2008 to develop the former dairy for residential purposes.

An application seeking outline permission to erect 18 dwellings on the site was withdrawn in 2008 (08/04520/OUT)

The application was submitted seeking permission to erect 18 dwellings on the site. The path was not included in the plans for this development.

There were 9 representations received in response to this application and of these only one mentioned the absence of the footpath from the plans.

The application was withdrawn on Officer advice as it sought to demolish the heritage assets on the site and this would not have been acceptable.

Permission was refused in 2013 (13/01919/FUL) for the demolition of the existing dairy and outbuildings, and erection of 14 dwellinghouses with associated garages, access road and landscaping. The initial plans contained no provision/retention of the footpath.

7 representations were received in response to this application with just two noting the absence of the footpath in the initial plans. A further representation noted that the inclusion of a footpath with increased pedestrian traffic could cause highway safety issues on the Warminster Place cul-de-sac due to inter-visibility problems.

A footpath was however included in amended plans submitted. This appears to have been in response to a suggestion from Highways Officers that the path be retained, though no specific reason was indicated at that time other than a suggestion that some residents had contacted the Officers in question regarding this point.

The principle of development in this application was considered acceptable and the revised layout considered satisfactory but there was insufficient provision for open space and insufficient information so as to make an informed judgement on the impact on archaeological remains and protected species habitats.

An application seeking permission to erect 14 dwellings on the site was withdrawn in 2014 (14/01653/FUL)

This application included the path from the outset.

7 representations were received in response to the application. Of these one identified the path as a useful shortcut but three commented that it could present either highway safety issues on Warminster Place or a useful escape route for criminals and possible opportunity for antisocial behaviour

South Yorkshire Police commented as follows on the inclusion of the path:

The footpath could become a crime generator, which will become a nuisance to residents close to the footpath. It may attract youths to loiter around and become an area where litter can gather. It creates an ideal escape route for a potential criminal and it provides people with a legitimate reason to be using the cul- de-sac. There will be no surveillance onto the footpath which will make it a vulnerable area. The development will be safer if the footpath were to be designed out.

The application was withdrawn as the developer (Bloor Homes) decided to pursue other higher priority sites.

Outline permission for the erection of up to 13 dwellings and conversion of the farmhouse was granted in 2015 (15/00158/OUT). This application once again included the path at inception. The accompanying transport plan stated that:

"it is worth noting the pedestrian link through the site to Warminster Place is to be retained. This is not a Public Right of Way; however it provides pedestrian access on to Warminster Road and in turn to the residential area of Meersbrook."

Five representations were received as a result of this application with one noting the path as a valuable shortcut and another valuing its inclusion but noting the previously mentioned highway safety issues.

The permission for this application included a Condition (No. 21) requiring that any Reserved Matters application should make provision for the path 'in the interest of delivering sustainable forms of transport in the area'.

Permission was granted in 2016 (1602968/REM) for the reserved matters on the 2015 outline application. The path was initially excluded from the layout plans for this application.

Since the inclusion of the path was conditioned on the 2015 outline this was, of necessity, subsequently included in amended plans for the Reserved Matters application.

SUMMARY OF REPRESENTATIONS

Representations from Cllr Sue Auckland and 11 local residents have been received as a result of the notification process.

Cllr Sue Auckland raises the following points:

I have been aware of the Cowmouth Farm site and the neighbouring roads and footpaths for all of this time and I can agree with the comments made by local objectors.

I am given to understand that the issue of the walkway agreement was a point of specific discussion and decision at the planning committee and I can see no new information from the applicants or information that was not available to them at the time of the original decision, that can justify changing that decision.

I am not convinced with regard to the emphasis placed on local crime in the supporting statements. The site has only attracted crime during its period of abandonment and dereliction.

It should be recognised that this particular footpath offers ease of access to local amenities which benefits existing residents and should benefit future residents.

Objections:

- Local residents report the area is generally a friendly and safe neighbourhood and do not recognise the description of the area as laid out in the Applicant's supporting statement.
- The path in its former guise as a short cut through to Hemsworth Road from Warminster Place has been used for decades and it has only been obstructed during the period of ongoing development
- The route should now be recognised as a right of way.
- It is highly doubtful that maintaining the footpath would encourage criminal activity in the future.
- The feasibility document rightly shows that the shortest route from Warminster Place to the amenities on Derbyshire Lane is down Warminster Road and along Mount View Road, but doesn't mention that a section of that route is a very steep slope, and, on that steep section, the pavement is narrow (not even wide enough to safely accommodate a pram) and slippery, as it is a gathering place for the leaves and debris washing down the hill.
- People use the path regularly to walk from Warminster Road to our main shopping centre at Woodseats via Cobnar Road top and back.
- The footpath would also be an asset to the new residents of this new build in order to access their nearest bus stop.
- The path has been used on many occasions in daylight and in darkness, and residents have not experienced threatening, criminal or antisocial behaviour.
- Much is made in the feasibility statement of the location of bus stops, but little mention is made of the many cyclists, pedestrians, owners of pushchairs & buggies and dog walkers who have used this popular route in the past.
- The reduction in bus services and local amenities (post office and local doctors) means the path provides a more direct route to Woodseats via Cobnar Road.
- The cut-through has always provided a safe route to both main entrances into Graves Park.
- Any police crime prevention advice is valuable, but this would not be a dark, damp, and narrow Victorian passageways between poorly supported rows of terraced housing.
- To walk up Warminster Road to Hemsworth Road can be difficult with damaged pavements and over hanging bushes. For residents to post letters etc. no footpath would mean either a long walk either up or down Derbyshire Lane or Warminster Road.

Non-Planning Matters Raised

-The footpath was going to be maintained in the original planning application and to remove it now shows a lack of respect for local residents.

-We are currently unable to access the side hedge to our own garden during the development of the homes on Cowmouth Farm. One would assume that once the building work is completed, a foot path can be well maintained, our hedge can be well maintained and it will appear welcoming and open.

-Although the proposals show the additional land becoming part of a (rather large) garden for Plot 11, we can't help but wonder whether the developers would, at a later date, apply to build yet another property or structure on that land.

-Despite all the concerted efforts of these parties to portray this as a potentially a source of much disquiet, I suspect the main reasons the developer wishes to remove the footpath is to keep options open for future development of the plot i.e. build another house(s) on the plot at a later date. Previous planning applications (13/01919/FUL) showed a site layout plan for just such a house on the area bounded by the footpath.

-If the developers wish to attract potential purchases of the houses, why have they gone to great lengths to point out how undesirable this area is?

Support

The Applicant has provided a supporting statement with the application the key points of which are reported here:-

-Upon the vacation of the dairy site the site became a target for trespassing, vandalism and antisocial behaviour.

- The land has always been in private ownership with no authorised access permitted to the site other than through the main entrance on Hemsworth Road

- The current owner has raised a more robust boundary treatment at the Warminster Place 'access' point to prevent usage of the trespassed route.

- The distances to the nearest bus stops in the locality will be little changed should the cut through be removed.

- The distance to access key areas of Graves Park for local residents would be insignificant

- The difference in distance to local shops (Derbyshire Lane) would be insignificant.

- The path could provide multiple entrance points of opportunity for criminal behaviour into the gardens of neighbouring properties

- In line with Secured by Design Guidance (2016) (The Official Police Security Initiative) the developer considers it unfavourable to increase the permeability and

facilitate crime to the rear and side elevations of all the dwellings by installing the path

- Secured by Design Guidance (2016) (The Official Police Security Initiative) also states that:

....features that generate crime within cul-de-sacs invariably incorporate one or more of the following undesirable features....

'Footpaths linking cul- de-sacs to one another can be particularly problematic, and in such cases the layout may need to be re-considered'

PLANNING ASSESSMENT

This is an application whose decision must be based not only on the balance between the potential positive and negative aspects of the pathway provision but also whether, in the light of these considerations, the initial judgement to add condition No. 21 passed the appropriate tests that all conditions on planning permissions are required to satisfy namely (as stated in Paragraph 206 of the National Planning Policy Framework):

Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
- 3 to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."

It is considered that points 2, 3, 4, and 5 are all satisfied in the case of condition 21

The issues requiring further assessment are whether the path is 'necessary' and/or 'reasonable in all other respects'. In this respect the reason for the condition on 15/00158/OUT is worthy of repetition that being:

'In the interests of delivering sustainable forms of transport'

Connectivity considerations

The anecdotal evidence provided by several residents strongly suggests that this desire line has been used by persons in the community for some considerable time. There is also little doubt that for some residents it does provide a convenient cut through from Warminster Road/Place through to Hemsworth Road and vice-versa. However, it is not, and never has carried the status of a Public Right of Way and as such the passage and re-passage of locals across the land appears to have been entirely an ad hoc arrangement conducted with or without the tacit approval of the

then landowners.

It is also apparent from examining the representations from the 2008 application onwards that this matter was not of wider concern in the community at that time with representations referring directly to this issue being very limited for each successive application.

Once again in 2013 there is little evidence that the absence of the path in the initially submitted plans was a significant cause for concern in the local community with only two references to the absence of the path and one representation actually highlighting the highway safety issues that might relate to the increased usage should the path be retained.

In considering the 2013 application officers negotiated the inclusion of the path presumably in order to promote permeability through the site, and sustainable travel options. Public Rights of Way officers had also encouraged this following enquiries from the public.

However, there appears to be a dearth of evidence as to the paths necessity in terms of it making a clear and significant contribution to sustainable transport within the locality and there was, of course, no condition attached to the application determination as the application was refused on other grounds.

Given the concept of the path retention had 'taken root' in the 2013 application it is not entirely surprising that this feature appeared once again in the 2014 application and subsequently in the 2015 outline application without the necessity consideration being re-visited i.e. it was a welcome rather than essential element of the 2014 and 2015 schemes

The necessity and or reasonableness of the path is now being challenged by the developer. It is considered that its contribution to connectivity needs to be assessed in relation to access to both local and district shops and local amenities

It should be noted that the Sheffield Core Strategy defines 'near to' as being 'within easy walking distance, this being considered 400 metres to a high frequency bus route. This distance is also defined in the South Yorkshire Design Guide as being equivalent to a 5 minute walk.

Distances to local shops

A small group of local shops (mini market/newsagents etc.) lie at the junction of Derbyshire Lane and Harvey Clough Road.

It is difficult to argue that the path increases accessibility to this small group of local shops. The shortest route is the more obvious route along Warminster Road and Harvey Clough Road. An objection has noted that the footpath is narrow and steep in sections along this route and prone to collections of leaves that make it slippery. However, the level differences between Warminster Place to Hemsworth Road are far from negligible and the accumulation of leaves etc. is not considered a localised problem when placed in the context of Sheffield streets generally. On inspection, the

footways along Warminster Road and Harvey Clough appear to offer adequate width for pedestrians, even those with young children.

Distances to District Shopping and other amenities

For those residents wishing to access a wider shopping experience with other services such as medical/post office etc. the District Shopping Centre at Woodseats is the closest provider. The District Centre has a significantly long linear layout stretching from Abbey Lane to Scarsdale Road and therefore for the purposes of this assessment the distances mentioned are to a nominal central location approximating to the junction of Chesterfield Road and Olivet Road. Achieving this location from the junction of Warminster Road and Warminster Place means a likely journey along Hemsworth Road and Cobnar Road. This journey approximates to 1.3-1.4 km. The distance saved for those residents of Warminster Road and Warminster Place who would use the path would once again be considered marginal in terms of the overall journey, probably of the order of 240 metres.

Distance to local amenities in Graves Park

The path would provide access from Warminster Place through to Hemsworth Road but to point located between the entrances at the junction with Bunting Nook and at Cobnar Road junction.

For those wishing to access via the former the footpath would offer no significant shortening of the route and indeed might actually marginally lengthen the travel distance. For those wishing to access the Cobnar Road entrance the safest pedestrian route would be through the Bunting Nook entrance and thence along park paths. The route along the public footpaths of Warminster Road and Hemsworth Road would involve a slightly longer route than the path but even here the difference in route length would not be significant. It is worthy of note that the short cut through would then likely involve crossing a busy road without the benefit of a pedestrian crossing rather than the pedestrian crossing close to the junction of Warminster Road and Hemsworth Road.

Access to local bus services

Bus services run along both Hemsworth Road and Warminster Road with the stops for both easily accessible to houses on Hemsworth Road, Warminster Road and Warminster Place. Whilst persons walking from certain locations on Warminster Road might cut tens of metres from their journey to the No. 18 stop and vice versa for residents on Hemsworth Road accessing the No. 20 stop on Warminster Road these savings are not considered significant in terms of what represents a sustainable journey on foot (i.e. with or without the path the distances still relate to 'within easy walking distance')

Connectivity Summary

In terms of testing the condition against the key tests the question that needs to be asked with regard to the 'necessity' of the condition can be summed up as follows:

Will it be appropriate to refuse planning permission without the requirements imposed by the condition? i.e. is it needed to make the development acceptable in planning terms.

In this respect it is considered that the development would not have been refused had the path not been included since its contribution to neighbourhood connectivity is felt to be limited.

In terms of testing the condition against the key tests the question that needs to be asked with regard to the 'reasonableness' of the condition can be summed up as follows:

Does the addition of the condition place unjustifiable and disproportionate burdens on an applicant?

In this respect it is not felt that the requirement to provide the pathway would represent a hugely onerous imposition on the developer. The path is relatively short and can be accommodated between domestic curtilages without overly disrupting the layout of the site or the number of units to be accommodated within it.

In conclusion then, with regards to matter of connectivity, the condition is not considered necessary as the provision of the pathway is not considered to contribute significantly to connectivity in the locality. It does not directly access a community focal point or amenity and is not considered to significantly reduce journey times to local or district services (on foot or by cycle) for a large group of residents.

Residential Amenity and Crime considerations

The Applicant's supporting statement describes a level of criminal/anti-social behaviour associated with the site though this appears to be mainly in relation to the period post the vacating of the site by the dairy. Groups of buildings such as this, left vacant and insecurely fenced are obvious targets for vandalism and nefarious activity. However, Officers do not consider this is symptomatic of the general character of the locality and consider that such activity is unlikely to continue once the site is re-developed with housing.

The police views raised on the subject of the path on a previous application (14/01653/FUL) with regard to the potential for anti-social behaviour/crime that might be related to the provision of the path are noted. The degree to which this type of activity might arise (if at all) is of course not easily quantifiable.

There can be no doubt that the provision of the path would make the rear gardens of flanking properties more 'permeable' and the fact that the existing flanking properties have only side elevations facing the path would mean that the path was not particularly well 'observed'. However the new build properties on plots flanking the path would have rear elevation windows overlooking the space and this would provide for some casual surveillance.

Objectors have noted that the path will be well lit but the route will not be adopted by the Council and as such will not be lit by street lights

Ginnels, snickets, and all manner of linking pathways do provide some magnetism for groups of youths but once again it is difficult to assume a particular level of activity that might arise in this instance.

Given all of the above the potential for anti-social/criminal activity behaviour is considered to carry some weight in favour of removing the path from the scheme but this weight is considered very limited.

Highways considerations

Section d) within Policy H14: Conditions on Development in Housing Areas within the UDP states that new development should provide safe access to the highway network and appropriate off-street parking and not endanger pedestrians.

Highways Officers have been consulted with regard to the application and have concluded that.....

Although the path is a useful cut through from Warminster Place (for example to access bus stops) it is not considered to offer significant benefits in terms of connectivity. As such the deletion of the path from the scheme cannot be deemed to have a severe impact on the highway network

The removal of the path offers benefits from a security point of view

There is a possibility that the provision of the path may lead to an increased on street parking on Warminster Place and to a lesser extent Warminster Road for visitors to Graves Park

Hence, despite the limited positives offered by the path it is not considered that the scheme without the path would be contrary to Policy H14.

RESPONSE TO REPRESENTATIONS

Matters relating to residential amenity, highways, connectivity and sustainability have been dealt with in the main body of this report.

Any future plans for the plot of land in question would be subject to a further planning application.

SUMMARY AND RECOMMENDATION

This application seeks permission to remove condition 21 from permission 15/00158/OUT which required the provision of a linking footpath between Warminster Place and Hemsworth Road via the new development.

It is acknowledged that the path would offer some benefit to a limited number of local residents.

It is also acknowledged that the path might contribute to increased risk of crime to neighbouring properties and possibly become a focus for anti-social behaviour but this factor is given limited weight.

Whilst the condition was originally imposed in the interests of delivering sustainable forms of transport case law has established the test as to whether a condition is reasonable and necessary can be summarised as 'would the application be refused permission without the addition of said condition'. This is now enshrined in national Planning Practice Guidance.

The Local Planning Authority accepts that several residents in the locality have expressed a desire to have a public footpath link through the new development but the path is not considered to have a significant benefit to the wider community. Its absence would have minimal impact on accessibility to services and upon opportunities for sustainable travel.

Based on the above assessment and the principles of testing conditions it is considered that the condition requiring the provision of the path as specified on Planning Permission 15/00158/OUT fails this test of 'necessary' and the application presented here should be granted.