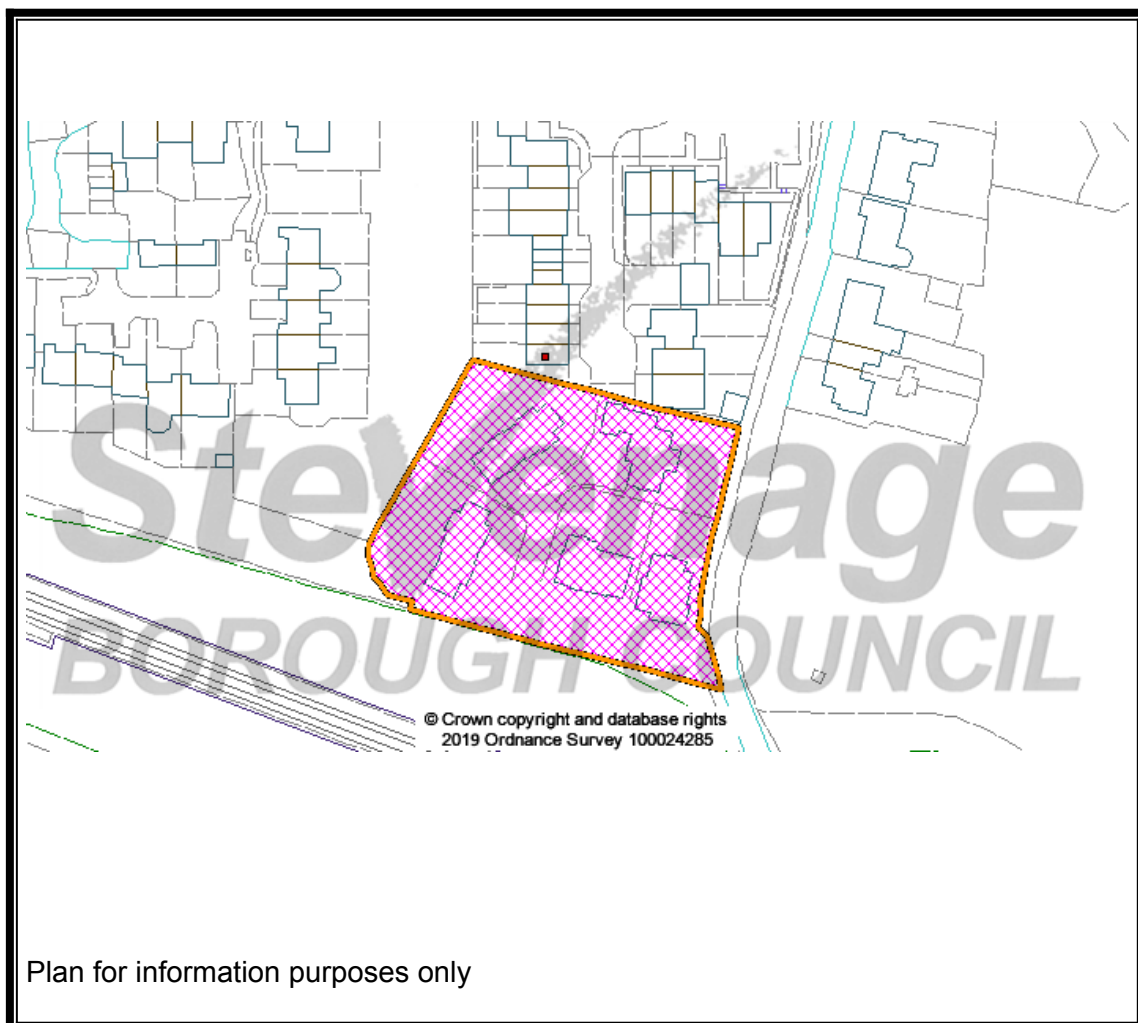


Meeting:	Planning and Development Committee	Agenda Item:
Date:	30 May 2019	
Author:	James Chettleburgh	01438 242266
Lead Officer:	Chris Berry	01438 242257
Contact Officer:	James Chettleburgh	01438 242837

Application No:	19/00124/FP
Location:	Land bounded by Bragbury Lane, Pembridge Gardens and Blenheim Way, Stevenage.
Proposal:	Removal of condition 9 (footpath) attached to planning permission reference number 16/00444/RM.
Drawing Nos.:	Site Location Plan
Applicant:	Torbeth Holdings Ltd
Date Valid:	09 April 2019
Recommendation :	REFUSE PLANNING PERMISSION.



1. SITE DESCRIPTION

- 1.1 The application site is located on the south-eastern periphery of Stevenage, close to the railway line and overhead power cables which run in close proximity to the southern boundary of the application site. The site comprises 5 no. detached, two-storey five bedroom houses with integral garages. The properties are constructed from textured red brick and natural Portland stone for the banding and plinths with the roofs clad in machine made plain tiles. The fenestration detailing of the properties comprise of timber sash windows with stone sub-cills and timber glazed doors. Directly to the north of the site is the former Van Hage Garden Centre which has been redeveloped into residential properties (known as Pembridge Gardens) by Charles Church. To the east of the site is Bragbury Lane which connects onto Broadhall Way (A602) to the north. To the west of the site is Blenheim Way and to the south lies the steep railway embankment and associated East Coast main railway line.

2. RELEVANT PLANNING HISTORY

- 2.1 Planning application 13/00595/REG3 sought outline permission for the erection of 5 no. five bed detached dwellings. This application was granted outline permission in September 2014.
- 2.2 Reserved matters application 16/00444/RM sought approval for the layout, scale, design and appearance of outline permission reference 13/00595/REG3. This application was granted permission in September 2016.
- 2.3 Planning application 16/00581/COND sought to discharge conditions 5 (materials), 7 (Tree Protection), 10 (boundary treatments), 12 (swept path analysis for waste vehicles), 17 (Construction Traffic Management Plan), 18 (Construction Method Statement), 19 (mitigation strategy and tree felling methodology), 20 (provision of bat and bird boxes), 22 (contaminated land investigation), 24 (suppression of dust), and 26 (archaeological scheme) attached to planning permission 13/00595/REG3 and discharge of condition 3 (soft landscaping) attached to Reserved Matters 16/00444/RM. The application was approved in April 2017.
- 2.4 Planning application 17/00338/S106 sought variation of Schedule 2, 1 (Financial Obligations) and Schedule 2, 2 (Obligation payment) of the Section 106 Agreement (dated 11th September 2014) approved under planning permission 13/00595/REG3. The varied S106 agreement was issued in November 2017.
- 2.5 Planning application 19/00079/FP seeks permission to vary condition 9 attached to planning permission 16/00444/RM to amend the delivery of the footpath to 3 months after the first occupation of the dwellings hereby permitted. This application is pending consideration.

3. THE CURRENT APPLICATION

- 3.1 This application seeks to remove condition 9 attached to Reserved Matters application 16/00444/RM. For reference, this condition states the following:-

Prior to the first occupation of the dwellings hereby permitted, the footpath link between Bragbury Lane and Blenheim Way as detailed on drawing number W801 received 15th August 2016 shall be constructed in accordance with the approved drawings and brought into use and retained thereafter.

REASON:- To ensure that there is an adequate footpath connection between Blenheim Way and Bragbury Lane.

- 3.2 When considering applications of this type, local planning authorities are entitled to consider only the question of the conditions to which planning permission should be granted and must leave the original permission intact. In this instance, the other conditions imposed on the originally granted planning permission for this development remain relevant so that the only issue for consideration in the determination of this application is how the variation of condition 9 referred to above would impact on the approved scheme.
- 3.3 This application is being referred to the Planning and Development Committee for its decision. This is because when the original outline application (13/00595/REG3) was determined by the Planning and Development Committee, the approved proposal detailed the provision of a public footpath/cycleway connection between Blenheim Way and Bragbury Lane. However, there have been concerns raised by Ward Councillors regarding the provision of this footpath and cycleway. Therefore, it is considered appropriate to refer this application to the Committee for its decision.

4. PUBLIC REPRESENTATIONS

- 4.1 Following notification of the application via letter to nearby residential properties and the erection of site notices, 1 objection was received from number 63 Blenheim Way. A summary of the objections raised is as follows:-
- This is considered an unnecessary change and would encourage unwanted attraction to bikers;
 - There is already issues with motor bikers which pose a danger to local people;
 - Feel there is no point commenting on changes as there seems Bragbury End is being subjected to whole changes, even with resident's objections the council are going to keep doing what they want.
- 4.2 Please note that the aforementioned is not a verbatim of the comments and representations which have been received. However, a full version of the comments and representations which have been received are available to be viewed on the Council's website.

5. CONSULTATIONS

5.1 Hertfordshire County Council as Highways Authority

- 5.1.1 There are no concerns with the removal of condition 9 in highways terms.

5.2 Hertfordshire Constabulary as the Crime Prevention Design Service

- 5.2.1 The proposed footpath actually follows the route of an existing desire line and forms part of semi-official amenity that has been used by the local residents for walking their dogs since the late 1970s when the estate was built. The actual desire line does show some attempts by someone to make it more formal however on checking with HCC there is no trace of any application to formalise the path.
- 5.2.2 The condition requires the path to be tarmacked. There are substantive concerns regarding this as it is totally out of keeping with the existing route. As stated above someone has tried to formalise the path by spreading bark chip and marking the edges with branches. Rather than lay tarmac it would be better to extend the use of bark chippings onto this path.

- 5.2.3 On initial inspection of the plans, there were concerns regarding the boundary treatment for plot one as this path would give easy access to the rear of the property. The concern was that anecdotal evidence shows that >60% of our dwelling burglaries occur at the rear of the property and the path could have allowed offenders access to the garden. However I am pleased to say that, on visiting the site, this will not be the case as the garden is bounded by a 1.8 m wooden fence.
- 5.2.4 In light of the comments the Police Crime Prevention Design Service, we are not in a position to fully support this application in its current form. There is a need for the foot path but not in the manner stated in condition 9 of the planning permission.

5.3 Council's Parks and Amenities Section

- 5.3.1 The proposed path will to some degree provide access (to the countryside and local parks and amenities) for residents of both Blenheim Way and the development site, which is somewhat isolated.
- 5.3.2 When visiting the site, there was evidence of a trod route to the pathway that runs adjacent to the railway embankment, but it runs close to the fencing rather than the route proposed – It is suspected this is due to the rather steep gradient.
- 5.3.3 Providing a more formalised tarmacadam pathway could improve accessibility, however, one could significantly question the current proposed footpath.

Our concerns and questions with this are:

- Steep gradient – does current proposed footpath route meet accessibility standards when traversing the hill / gradient to the rear of the development? Would a levelling of the gradient be required to meet standards?
 - The proposed path stops short in Blenheim Way (at the knee rail fence) and does not link up with exiting path network. This would be an accessibility concern and contradicts the purpose of the path.
 - Tarmacadam is the preferred material for maintenance purposes - however due to the length of the path, this would likely have an impact on the visual appeal of the site.
- 5.3.4 In terms of un-authorised access, it is agreed that installing a 'K-barrier' at the Bragbury Lane end would help deter this.
- 5.3.5 Given the above, it is preferred to not have the path across the amenity land in its current design. However, it is important to continue having a path along the railway fencing side, provided the barrier can be installed to prevent unauthorised access.

6. RELEVANT PLANNING POLICIES

6.1 Background to the Development Plan

- 6.1.1 In the determination of planning applications development must be in accordance with the statutory development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:
- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014);
 - Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007); and
 - The Stevenage District Plan Second Review 2004.

The Council has now reached an advanced stage in the preparation of a new Stevenage Borough Local Plan 2011-2031. The Plan has been used as a material consideration in the

determination of all planning applications registered on or after Wednesday 6 January 2016. The Plan has now been through the Examination process and the Inspector's Report was received in October 2017. This recommended approval of the Plan, subject to modifications proposed. The Plan was previously subject to a holding direction placed upon it by the Ministry of Housing Communities and Local Government (MHCLG), which prevented its adoption. The holding direction on the Stevenage Borough Local Plan was lifted by MHCLG on 25 March 2019 and is now subject to formal adoption by Stevenage Borough Council.

- 6.1.2 The National Planning Policy Framework sets out that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the National Planning Policy Framework.
- 6.1.3 In considering the policy implications of any development proposal, the Local Planning Authority will assess each case on its individual merits, however, bearing in mind the positive Inspector's Report, significant weight will be afforded to policies within the emerging Local Plan.

6.2 Central Government Advice

- 6.2.1 A revised National Planning Policy Framework (NPPF) was published in February 2019. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 213 of the NPPF applies which states that due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with it.
- 6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development.
- 6.2.3 In addition to the NPPF, advice in Planning Practice Guidance must also be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 11 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

6.3 Adopted Local Plan

Policy TW1: Sustainable Development;
Policy TW2: Structural Open Space;
Policy TW8: Environmental Safeguards;
Policy TW9: Quality in Design;
Policy TW10: Crime Prevention;
Policy T13: Cycleways;
Policy T14: Pedestrians;
Policy EN12: Loss of woodland.

6.4 Stevenage Borough Local Plan 2011-2031 Publication Draft (Emerging Local Plan)

Policy SP1: Presumption in favour of sustainable development;

Policy SP2: Sustainable Development in Stevenage;
Policy SP5: Infrastructure;
Policy SP6: Sustainable Transport;
Policy SP8: Good Design;
Policy IT7: New and improved links for pedestrians and cyclists;
Policy GD1: High Quality Design;
Policy NH5: Trees and woodland;
Policy NH6: General protection for open space.

7. APPRAISAL

- 7.1. The main issue for consideration in the determination of this application is whether the proposed variation of condition 9 attached to planning permission 16/00444/RM to remove the requirement to deliver the shared footpath and cycleway hereby permitted is acceptable to the Local Planning Authority.

7.2. Planning Policy Considerations

- 7.2.1 Stevenage Borough Council as both the applicant and landowner was granted outline permission (outline application 13/00595/REG3) in 2014 for the erection of 5 detached houses on land bounded by Bragbury Lane, Pembridge Gardens and Blenheim Way. As part of this application, the scheme comprises the laying out of a shared cycleway and footpath between Blenheim Way and the development site. This was in order to provide access to the cycleway on land to the northwest. In addition, there was, prior to the commencement of development, an established informal route between Blenheim Way and Bragbury Lane which was used by the local community in order to gain access to the wider countryside and it was desirable to keep this link.
- 7.2.2 Following the sale of the land to the applicant, a subsequent reserved matters application (application reference: 16/00444/RM) was received by the Council. This application sought the detailed approval of the layout, scale, design and appearance of the residential development. As part of this application, the applicant sought to re-configure the location of the approved shared cycleway/footpath to ensure the development site was more secure for future occupiers of the houses. In addition, there were concerns from a safety perspective for cyclists and pedestrians as there were no defined footpaths/cycleways within proposed development site. However, the scheme would still ensure there would be formalised pedestrian and cycle access for local residents to the wider countryside from Blenheim Way.
- 7.2.3 This application before the Council seeks to remove the requirement to provide the shared footpath and cycleway. The main reason for submitting this application, as advised by the applicant, is since the submission of planning application 19/00079/FP, which is also on this committee agenda, is that local residents from Blenheim Way, Stirling Close and Windsor Close have raised objection to the provision of the footpath as detailed under permission 16/00444/RM. This is because residents consider the footpath to be completely unnecessary and would only serve to intersect an open space that is well used by local residents. In addition, residents have raised concerns regarding the potential for increased crime as a result of the formal connectivity that would be created. Therefore, due to local opposition to the installation of the footpath, the applicant has requested that condition 9 is removed from the reserved matters permission.
- 7.2.4 Dealing with the concerns raised by the objector regarding anti-social behaviour, following consultation with Hertfordshire Constabulary Police Crime Prevention Design Advisor, they did not raise concerns that the shared service footpath and cycle-track would exacerbate or

generate issues with regards to crime. In addition, there are certain measures which can be used to mitigate against the unauthorised use of the shared cycle track/footpath. This can be through the installation of a K-barrier and/or a staggered barrier at either end of the proposed footpath. This would help to restrict the ability of motorcycles to access the area of public open space via the proposed shared footpath/cycleway.

- 7.2.5 Turning to the proposed construction of the shared cycle track/footpath, it is recommended by the Police Crime Prevention Design Advisor that tarmacadam should not be used in the construction of the proposed cycle track/footpath. This is due to concerns that construction the shared surface out of tarmacadam would harm the visual amenities of the area. However, the proposal is for a shared cycle track/footpath which has already been agreed in principle under planning application 13/00595/REG3. As such, this shared surface needs to be constructed from a durable material which would be able to accommodate cyclists and pedestrians.
- 7.2.6 Further to the above, despite the concern which has been raised, the shared surface would not be out of character as there are a number of tarmacadam and/or hardsurfaced footpaths and cycleways in the area, including a pedestrian footpath connection between Blenheim Way and Pembridge Gardens. Furthermore, the proposed shared surface has been designed to ensure that only a limited area of open space would be affected by the proposed route of the footpath/cycleway. It is appreciated the Council's Parks and Amenities Section has raised some concerns regarding the overall suggested route in terms of accessibility, its construction etc. As such, if planning permission were to be granted, condition 9 can be amended to set out that if an alternative route is to be required, this can be agreed in writing by the Council as the Local Planning Authority in conjunction with the Council's Parks and Amenities Section.
- 7.2.7 In regards to the requirements for the shared cycleway and public footpath, the National Planning Policy Framework (2019), paragraph 102 sets out that transport issues should be considered for development proposals so that, as set out under criterion c, opportunities to promote walking, cycle and public transport use are identified and pursued. Policy SP1 of the Emerging Local Plan (2016) states that when considering development proposals, a positive approach will be taken that reflects a presumption in favour of sustainable development. Policy SP2 of the same document stipulates that planning permission will be granted where proposals demonstrate how they will promote journeys by bus, train, bike and foot and reduce the need to travel. It is also set out in the Emerging Local Plan that the Government encourages us to plan positively for cycling and walking (paragraph 5.56). In addition, paragraph 8.22 of the Emerging Local Plan emphasises that Stevenage is a sustainable travel town and the Mobility Strategy focuses on reducing the need to travel overall and increasing the proportion of journeys made by sustainable modes such as by foot or by bicycle. Policy IT5 of the same document stipulates that there is a requirement to provide links to existing cycleways and pedestrian networks as well as looking towards improving cycleways and pedestrian routes. Furthermore, paragraph 8.34 emphasises that it is important to ensure developments are easily accessible, especially for example walkers and cyclists.
- 7.2.8 Taking into consideration the above, without a footpath/cycle link the only way the development site can be accessed is by motor-vehicle. Therefore, by providing a shared cycleway/footpath, it ensures that the development site is easily accessible by bicycle and by foot. In addition, due to the siting and position of the proposed footpath, it would also allow residents to safely access the wider countryside from Blenheim Way which helps to improve the health and welfare of local residents. Furthermore, there is no defined footpath

or cycleway along Bragbury Lane in which the development site can be connected to. In addition, it would allow safe access from the development site to the neighbourhood centre at Kenilworth Close. As such, this is a key objective in the National Planning Policy Framework with regards to planning development. Furthermore, there was a desire line prior to the commencement of the development which demonstrated that local residents traversed the open space in order to access widely countryside.

- 7.2.9 Consequently, by removing the requirement to provide a cycleway/footpath as required under application 16/00444/REM, the development on Bragbury Lane does not have a clearly defined and accessible cycleway or footpath which would encourage a modal shift away from the motor-vehicle as is required under the Emerging Local Plan and the NPPF. As such, there would be an over reliance on the car as there are no clearly defined footpaths or cycleways along Bragbury Lane in which the proposed development can connection to. In addition, it removes the ability to provide a clearly defined and safe pedestrian and cycle route from Blenheim Way to Bragbury Lane which is considered beneficial to the health and wellbeing of residents in the area.

8. CONCLUSION

- 8.1. In summary, the proposed removal of condition 9 attached to planning permission 16/00444/RM would mean the development site is not connected to a footpath or cycleway which would help to encourage a modal shift away from the car. As such, there would be an over reliance on the car which is not considered to be a sustainable form of transport. In addition, it removes the ability to provide a defined pedestrian and cycleway route between Blenheim Way and Bragbury Lane which allows residents direct access to the open countryside which is considered beneficial and wellbeing of local residents. As such, the proposal would be contrary to Policies SP1, SP2, SP6 and IT5 of the Stevenage Borough Local Plan 2011 – 2031 Publication Draft January 2016, the National Planning Policy Framework (2019) and Planning Practice Guidance 2014.

9. RECOMMENDATION

- 9.1. That planning permission be REFUSED subject to the following reason:-

- 1 The proposed removal of condition 9 attached to planning permission 16/00444/RM would result in there being no connection of the application site to wider footpath and cycle networks. As such this would result in there being an over reliance on the on the car which is not considered to be a sustainable form of transport. In addition, it removes the ability to provide a defined pedestrian and cycleway route between Blenheim Way and Bragbury Lane which allows residents direct access to the open countryside which is considered beneficial and wellbeing of local residents. As such, the proposal would be contrary to Policies SP1, SP2, SP6 and IT5 of the Stevenage Borough Local Plan 2011 – 2031 Publication Draft January 2016, the National Planning Policy Framework (2019) and Planning Practice Guidance 2014.

10. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage District Plan Second Review 1991-2011.
3. Stevenage Borough Council Supplementary Planning Documents – Parking Provision adopted January 2012.

4. Stevenage Borough Local Plan 2011-2031 Publication Draft.
5. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
6. Central Government advice contained in the National Planning Policy Framework February 2019 and Planning Policy Guidance March 2014.