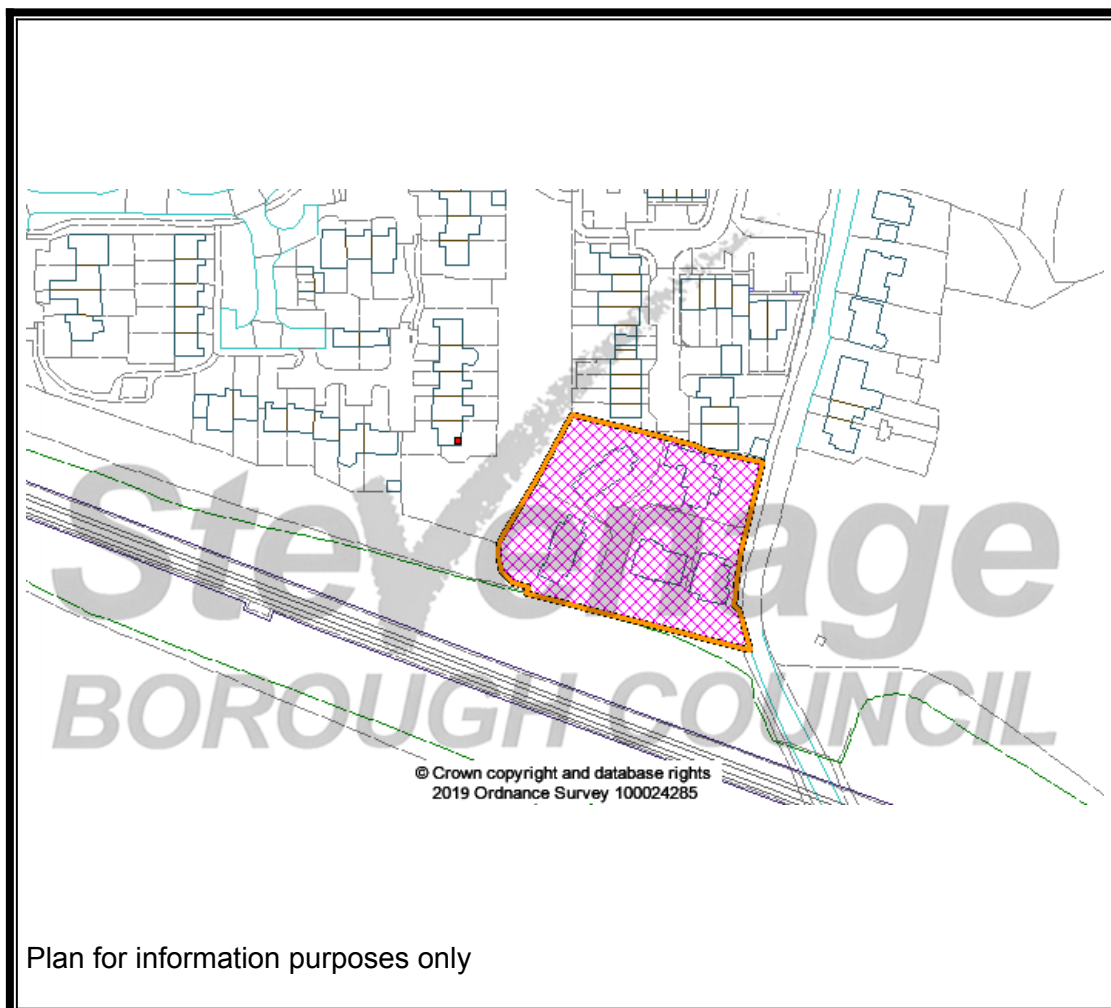


<b>Meeting:</b>	<b>Planning and Development Committee</b>	<b>Agenda Item:</b>
<b>Date:</b>	<b>30 May 2019</b>	
<b>Author:</b>	<b>James Chettleburgh</b>	01438 242266
<b>Lead Officer:</b>	<b>Chris Berry</b>	01438 242257
<b>Contact Officer:</b>	<b>James Chettleburgh</b>	01438 242837

Application No:	19/00079/FP
Location:	Land bounded by Bragbury Lane, Pembridge Gardens and Blenheim Way, Stevenage.
Proposal:	Variation of 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.
Drawing Nos.:	Site Location Plan
Applicant:	Torbeth Holdings Ltd
Date Valid:	09 April 2019
Recommendation :	GRANT 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. This 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 19/00124/FP seeks permission the removal of condition 9 (footpath) attached to reserved matters permission reference 16/00444/RM. This application is pending consideration.

## **3. THE CURRENT APPLICATION**

- 3.1 This application seeks to vary condition 9 attached to Reserved Matters application 16/00444/RM to amend the delivery of the footpath to 3 months after the first occupation of the dwellings. 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.
- 3.2 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 a number of objections from local residents and 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, 2 objections were received from numbers 51 and 53 Blenheim Way. In addition, a 19 signature petition was also submitted to the Council objecting to the application. The persons who signed the petition were from the following addresses:-
- Numbers 33, 37, 39, 41, 43, 49, 51, 53, 57, 63, 64, 83, 84
  - Number 1 Windsor Close;
  - Number 43 Stirling Close;
  - Number 34 Walpole Court.
- 4.2 A summary of the objections raised are as follows:-
- There is no requirement for the proposed footpath;
  - The footpath would be used by cycles and mopeds which would put users and animals at risk;
  - The footpath would potentially increase crime in the area.
- 4.3 Please note that the aforementioned is not a verbatim of the comments and representations which have been received. 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 The proposed variation to condition 9 is acceptable 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 footpath 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 amend the delivery of the footpath to 3 months after the first occupation of the dwellings 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 obtained 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 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.
- 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 delay the delivery of the footpath by 3 months following the occupation of the dwellinghouses. The main reason for the delay in constructing the footpath is because, as advised by the applicant, local residents have experienced misuse of the open space which has affected their amenity. In addition, they consider the provision of the footpath would exacerbate the potential for anti-social behaviour. This is generally reflected in the objections which have been raised by local residents to this application.
- 7.2.4 However, the applicant notes the Council's requirements for the footpath and as the development is substantially complete and about to be occupied imminently, they are seeking a delay to the delivery of the footpath. This is to allow sufficient time to agree a

finalised specification for the footpath/cycleway with the Council as landowner as it is to be constructed on Council land and maintained at public expense.

- 7.2.5 In terms of the concerns raised regarding anti-social behaviour by local residents, 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. However, there are certain measures which can be used to mitigate against the unauthorised use of the shared cycle track/footpath by for example motor-cycles. This can be through the installation of a K-barrier and/or a staggered barrier at either end of the footpath. This would help to restrict the ability of motorcycles to access the area of public open space via the proposed shared footpath/cycleway.
- 7.2.6 Turning to the proposed construction of the shared cycle track/footpath, it is recommended by the Police Crime Prevention Design Advisor that tarmac should not be used in the construction of the proposed cycle track/footpath. This is due to the concerns that the construction of the shared surface out of tarmac 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 both cyclists and pedestrians.
- 7.2.7 Further to the above, despite the concerns raised, the shared surface would not be out of character as there are a number of tarmac 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.
- 7.2.8 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.

- 7.2.9 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.
- 7.2.10 Consequently, by providing the shared cycleway/footpath as required under application 16/00444/REM, the development on Bragbury Lane would have a clearly defined and accessible cycleway and footpath which would help to encourage a modal shift away from the motor-vehicle as is required under the Emerging Local Plan and the NPPF. In addition, it will 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. Consequently, the overall benefits of the proposed shared pedestrian and cycle route would outweigh the concerns which have been raised by local residents and the limited impact it would have on the open space.

## **8. CONCLUSION**

- 8.1. In summary, the proposed variation of condition 9 attached to planning permission 16/00444/RM to amend the delivery of the footpath to 3 months would be acceptable in planning terms. This is because whilst the delivery of the shared cycle path/footpath would be delayed, there would still be a clearly defined pedestrian and cycle path connection being provided between Blenheim Way and Bragbury Way which encourages a modal shift from the car by improving accessibility to the countryside. In addition, the amended condition can be worded positively to allow some flexibility in regards to the detailed design stage of the shared footpath/cycleway and its overall route. This would help to address the concerns raised by the Parks and Amenities Section. As such, the footpath/cycle path once constructed would help to improve the health and wellbeing of the local community which is one of the key objectives defined in the adopted Local Plan (2004), Emerging Local Plan (2016) and the NPPF (2019).

## **9. RECOMMENDATION**

- 9.1. That planning permission be GRANTED subject to the following conditions:-

- 1 The development hereby permitted shall be completed in accordance with the following approved plans:

DRAINAGE PLAN; SITE LOCATION PLAN; TOPOGRAPHICAL SURVEY; W802Received 15.08.2016; W803; W804; W805; W806; W807Received 15.08.2016; W808Received 15.08.2016; W809; W810; W811; W812; W801Received 15.08.2016;

**REASON:-** For the avoidance of doubt and in the interests of proper planning.

- 2 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building(s) or the completion of the development whichever is the sooner.



**REASON:-** To ensure the proper completion of the soft landscaping in the interests of visual amenity.

- 3 Any trees or plants comprised within the scheme of landscaping, which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

**REASON:-** To ensure the maintenance of the approved landscaping scheme in the interests of visual amenity.

- 4 The approved garages and driveways/parking arrangements as constructed in accordance with the details identified on drawings W801 Received 15th August 2016, W802 Received 15th August 2016, W804, W806, W808 Received 15th August 2016, W810, W812 shall be permanently retained in that form for the parking of motor-vehicles only and shall not be used for any other purpose.

**REASON:-** To ensure sufficient parking provision in accordance with the Council's adopted standards is maintained for all dwellings on site in perpetuity.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revising, revoking, and re-enacting that Order with or without modification) no windows, doors or other openings at first floor level on the north-eastern elevation of House 2, northern elevation of House 3 and the northern and western elevations of House 5 other than those expressly authorised by this permission shall be constructed.

**REASON:-** In order to protect the amenities of residential properties in Pembridge Gardens and to reduce any overlooking or loss of privacy to the private amenity areas of House numbers 3 and 4.

- 6 The window to be created in the bathroom at first floor level on the northern elevation of House 5 shall be glazed in obscure glass (level 3 or above) and shall be non-opening below a height of 1.7 metres measured from the internal finished floor level. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

**REASON:-** In order to protect the privacy and amenities of House number 3.

- 7 Within 3 months from the occupation of any 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, unless any alternative route has been agreed in writing by the Local Planning Authority.

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

## 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.