

**Hadlow (Hadlow)**      **562958 149826**    **28 September 2007**    **TM/07/03568/FL**  
Hadlow, Mereworth And  
West Peckham

Proposal:                      Creation of a footpath and new footbridge  
Location:                      Land Adjacent River Bourne At Hadlow College Tonbridge  
Road Hadlow Tonbridge Kent  
Applicant:                      Hadlow College

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## **1. Description:**

- 1.1 It is proposed to construct a new public footpath along the north-eastern edge of the Hadlow College complex, largely following the line of the River Bourne. The intention is that this will eventually be designated as a public right of way, replacing PROW MT114 that currently runs along the principal access road through the College. An application has been made to KCC for a Diversion Order under the Highways Acts. Planning permission is required for the engineering works to create the footpath and the associated use of the land as such.
- 1.2 The proposed route starts in Tonbridge Road at a point between the river bridge and the current main entrance to the College, where an existing path enters the College grounds. It runs across the open ground to the front of the College, towards the river, which it will then cross via a new footbridge. It will then run along the north-eastern side of the river, cutting across a field where the river loops to the west, and re-joining it further north. It will then cross back to the south-western side of the river via an existing bridge (which is to be improved by the provision of handrails and additional supports) to link up with an existing surfaced path that meets PROW MT118 at the north-eastern corner of the campus. The existing route of MT118 would provide a link back to MT114 where it leaves the north-western boundary of the main campus.
- 1.3 The proposed path would be hard surfaced in material that will meet the specification for adoption as a PROW. The unfenced sections would be 2m wide, and the fenced sections (principally at the northern end beyond the second footbridge) would be 3m wide. New landscape planting is proposed where the path runs along the eastern bank of the river, including suitable species along the river margins and trees on both sides of the path. A new hedgerow is proposed where the path runs adjacent to the College's machinery yard towards the northern end.
- 1.4 The application includes a supporting letter and statement that include the following information:
  - *Over recent years Hadlow College has experienced an increase in agricultural machinery and equipment being stolen from the College grounds and so security is a very serious concern. The existence of the public right of way*

*running through the College provides unhindered public access to the College presenting the opportunity for theft.*

- *Similarly the College holds a duty of care to its younger students some of whom are only 16 years old and so again the public footpath presents the opportunity for unhindered access to the College grounds. The College is in the unenviable position of having no ability to challenge people within the heart of the campus as there is public right for them to be there.*
- *The college therefore wishes to seek a formal diversion of that part of Footpath MT114 that runs along the College Drive to a new route on the eastern side of the college. The new route will provide a high quality riverside walk that is superior to the existing route and is more convenient in terms of access from the village.*
- *Permissive access to the College nursery and other enterprises will continue to be provided for as long as these remain in place. It remains the focus of the College to ensure that the public can continue to enjoy walking around the College whilst protecting the College grounds, property and students as far as possible.*

1.5 This application is being reported to Committee because of the nature and level of public interest.

## **2. The Site:**

2.1 The proposed route runs through landscaped grounds in front of the College and then across open ground on the eastern side of the river. The northern end runs adjacent to buildings and yards at the rear of the College.

2.2 The existing PROW runs along the main college access road, there being no dedicated footway.

2.3 All the land included in the application is in the ownership of the College. The whole of the new route lies within the MGB and outside the defined confines of the village. None of the route falls within the area of the Hadlow College Major Developed Site in the Green Belt, as defined through saved policy P6/17(g) of the TMBLP and policy M1(g) of the draft Development Land Allocations DPD.

## **3. Planning History:**

3.1 None relevant.

## **4. Consultees:**

4.1 PC: Hadlow Parish Council objects to the planning application. The basis of the application is Duty of Care to the students and security concerns generally as the open nature of the existing footpath allows easy access.

Is there a record of specific instances of theft and lapses of security? Hadlow Parish Council would like to see evidence of these.

Reasons for non agreement:

- The proposed new footpath does not add to the security of the college in any way as it is unlit unlike the existing one which is well lit.
- The proposal will also lead to security issues with adjoining properties in Carpenters Lane.
- The proposal will have a negative environmental impact on wildlife along the River Bourne which adjoins the proposed footpath.

4.2 KCC PROW: No objection. I have no objection to the proposed footpath creation as detailed in the planning application. However, the applicant should be made aware that the granting of planning consent does not entitle the applicant to divert Public Footpath MR114.

For your information, an application to divert Public Footpath MR114 under s.119 of Highways Act 1980 was received by KCC on 1<sup>st</sup> August 2007 and is unlikely to be determined before 2009.

Should the diversion application be successful (and there is no guarantee of this), the works detailed in the planning application would be authorised through Highway Act powers. I therefore question whether or not planning permission is actually required. Of course, if the applicant wants to build the footpath as a route for students/visitors/locals etc. (i.e. not a highway), this would obviously be a matter for yourselves to decide.

4.3 TMBC Crime Reduction Co-ordinator: No objection. I have spoken to the Police Crime Reduction Officer regarding this application and they have no objection to the diversion of the footpath. Crimes occurring at Hadlow College have increased (from 8 in 2002 to 17 in 2007). Of the 17 crimes occurring during 2007, five have been thefts and five have been burglary other than dwellings. Therefore the Police and ourselves have no objections to the diversion of the footpath.

4.4 EA: No objection. The majority of the proposed works are within 8m of the River Bourne, which is classified as Main River at this location. The works will therefore require land drainage consent. We will be particularly concerned about the design of the new footbridge which must be above the top bank level to ensure it does not impede flood flows and the details provided with the planning application are not sufficiently detailed for the land drainage consent to be considered.

Should the LPA grant approval for this proposal, the applicant should send details of the construction of both the footpath and the footbridge to the Environment Agency for review before the land drainage application is issued. No work on the

footpath or footbridge shall be undertaken until land drainage consent has been granted.

- 4.5 Natural England: No comments. Based upon the information supplied as part of the planning application and having considered the limited nature conservation information we have relating to this land, Natural England has no comments to make at present with regards to this application.

It is possible that protected species may be using the site to be developed. As such, if the Council is aware of the presence, or representations from other parties highlight the possible presence, on the site of a protected or Biodiversity Action Plan species, the Council should request survey information.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the installation of bird nest boxes.

- 4.6 The Ramblers Association (summarised): Objects on the grounds that the proposed diversion will be substantially less convenient to the public and it is not necessary to enable redevelopment of the college site. Therefore there appears to be no need for the public footpath to be diverted. Moreover, it is a misconception to believe that the alternative route would enhance security overall, especially as it is unlit and does not provide such good opportunities for natural surveillance as the existing route. *(DPTL note: This long and detailed letter – which is available for Members' inspection – includes reference to a number of matters that are not material to consideration of the planning application but which will be more pertinent to KCC's consideration of the application for the footpath diversion.)*

- 4.7 Private Representations (including response to site and press notices): 0X/0S/2R

Objections have been received on the following grounds:

- The proposed path would not be lit, the existing path is, and also has CCTV.
- The existing footpath is safe due to the number of people who use the area.
- Lighting the proposed path would spoil this area.
- Having the path going through the college increases natural surveillance.
- The new path would not increase security at the college.
- The proposed footpath would increase the security risks to residents in Carpenters Lane, Monypenny Close and Waterslippe.
- There will be a negative impact on flora and fauna.

**5. Determining Issues:**

- 5.1 The main issues raised by this proposal are whether the development is appropriate in this Green Belt location, the acceptability of the development in the countryside generally, particularly taking account of the enhanced access to the riverside it would facilitate, its visual impact, and its impact on privacy and security for nearby residents. It is also necessary to consider crime and disorder issues more generally, given the motivation for submitting the application, as outlined by the applicants.
- 5.2 It is however important to try to differentiate between this application for planning permission and the parallel application to KCC for diversion of the footpath. These two statutory processes are quite separate and different and, although there is a degree of overlap, the material considerations are different. Approval (or refusal) through one process does not necessarily mean that the same decision will be appropriate in the other. For example, a principal consideration for the PROW diversion application will be whether the proposed route is as commodious (in terms of the convenience of the route taken, ambience, etc) as the existing line of the footpath. Although these issues may be of some relevance to consideration of the planning application, they are not of overriding weight compared to other factors. The considerations for the planning application are the physical and other impacts of the development, especially given the Green Belt setting, taking into account the intention that this is a route over which the public may, in due course, be given rights of access.
- 5.3 PPG2 says that development involving engineering operations and the material change of use of land are inappropriate in the Green Belt unless they maintain openness and do not conflict with the purposes of including land within the Green Belt. KMSP policy SS2 and TMBCS policy CP3 apply this national Green Belt policy on a local basis. The development proposed by this application will not conflict with any of the purposes of including land within the Green Belt, as set out in paragraph 1.5 of PPG2. Paragraph 1.6 of PPG2 says that the use of land within Green Belts has a positive role to play *inter alia* in providing access to the open countryside for the urban population and providing opportunities for outdoor recreation. The physical and visual impact of this proposed development is very limited and will, I consider, serve to maintain the openness of the Green Belt. To the extent that it will enhance accessibility to open countryside generally, I also consider this proposal to meet general Green Belt objectives and on that basis I conclude that this is not inappropriate development in the Green Belt.
- 5.4 Somewhat similar considerations apply to development in the countryside generally. Both KMSP policy SS8 and TMBCS policy CP14 seek to restrict development in the countryside unless it falls within certain categories of development. The only category that might apply to this proposal is that in CP14(h) relating to predominantly open recreation uses. The applicant has made reference to those elements of PPS7: Sustainable Development in Rural Areas

that encourage LPAs to support activities that promote recreation in and the enjoyment of the countryside, and improve public access. Of greater significance, in my view, is TMBCS policy CP24.5 which encourages the provision of increased access to river corridors for walking and recreation where this is consistent with the conservation and enhancement of their landscape, the water environment and wildlife habitats. KMSP policy EN12 contains similar provisions. The introduction of this low-key use should have no harmful impact upon the riverside environment, and the additional landscape planting proposed will, subject to careful detailing, provide a positive enhancement. I consider that the proposed path will provide clear advantages over the existing public route in respect of this particular policy objective.

- 5.5 The Borough Council has a statutory duty to exercise all its functions having due regard to the likely effect upon crime and disorder, and to do all that it reasonably can to prevent crime and disorder. These objectives are reflected in TMBCS policy CP1.7. It is clear from the applicants' submission that their prime motivation in bringing forward this proposal is to reduce the risk of theft from the college campus and to enhance the personal safety and security of staff and students. Some of the consultee responses cast doubt on whether the proposal will in fact achieve these objectives, either because the perceived threat arising from use of the existing route is overstated, or because the proposed route will not bring about a "betterment", for example because of the lack of lighting and absence of natural surveillance. However, the scheme has the tacit support of both the Police and TMBC's own crime reduction advisers. In this connection it should be remembered that the fear of crime can be also be a consideration as well as can the actuality. Although concern has also been expressed that the new path would bring increased security risks to residential properties in the Carpenters Lane area, the closest of these properties is some 40m away, across open ground. On balance, taking the crime and disorder reduction issues as a whole, I believe that this proposal would bring benefits rather than disbenefits.
- 5.6 Matters such as the level of the soffit of new footbridge (to avoid impeding flood flows) and a detailed planting scheme can be covered by conditions on a grant of planning permission.
- 5.7 This proposal meets the tests for appropriate development in the Green Belt and in the countryside generally. It provides the opportunity for enhanced access to the open countryside and to the river bank in particular. Although the crime and disorder issues are balanced, no objection is raised by the Police and the Council's own specialist advisers. Irrespective of whether the PROW diversion application to KCC is eventually successful, I believe the case for granting planning permission is sound. It must be remembered that this decision does not mean that the re-routing of the path will be approved under the Highways Act.

**6. Recommendation:**

- 6.1 **Grant Planning Permission** subject to the following conditions and in accordance with the following submitted details: Letter KAL/5704 dated 28.09.2007, Design and Access Statement KL/5704 dated 28.09.2007, Drawing dated 28.09.2007, Drawing DHA/5704/07 dated 28.09.2007, Drawing DHA/5704/03 dated 28.09.2007, Drawing DHA/5704/04 dated 28.09.2007, Drawing DHA/5704/05 dated 28.09.2007, Drawing DHA/5704/02 dated 28.09.2007 subject to:

**Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 All materials used shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the visual amenity of the locality.

- 3 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate. (L003)

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 4 All trees planted shall be protected (particularly against stock and rabbits) immediately upon planting and such protection shall be retained at all times for 10 years thereafter.

Reason: In the interests of good forestry and amenity.

- 5 No development shall take place until details of the soffit level of the new footbridge hereby approved have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that, in the event of a flood, the flow of floodwaters is not unnecessarily impeded.

**Informatives**

1. The granting of planning permission for these works does not entitle the applicant to divert Public Footpath MR114 unless and until such diversion has been approved by Kent County Council under Section 119 of the Highways Act 1980.
2. You are also advised that, in undertaking the works hereby approved, due regard should be had to the provisions of the Wildlife and Countryside Act 1981 relating to the protection of species and habitats. The applicant is recommended to seek further advice from Natural England, South East Region, Sterling House, 7 Ashford Road, Maidstone, Kent, ME14 5BJ.

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