Dear Sir or Madam

Public Path Diversion Order- The Kent County Council (Public Footpaths MU65 (Part) & MT41 (Part) Tonbridge and Hildenborough) Public Path Diversion and Definitive Map and Statement Order 2018

Following careful consideration of the application to divert these two Public Rights of Way the County Council was satisfied that an Order should be made. This Order is attached for your information. The County Council is satisfied that the applicant has set out grounds for diversion which meet the requirements of Section 119 of the Highways Act, in so far as it is in their interests for the paths to be diverted. The applicant accentuates problems for himself and his family of safety and security as currently the footpath runs very close to the house where children often play; frequent incidents of cyclists, who are not allowed to use the path but still do, riding carelessly and dangerously fast on the path whilst our children played outside; even an incident where a dog walker chased his dog in his car all the way down to the lane to the front of the house; a situation where a person who bore a grudge against the previous owner of the house used to come and stand on the path right in front of the house and watch the house. This is very frightening for the applicant his wife and children; hygiene: very frequently dog mess is left by irresponsible dog owners right on the footpath in front of the house where children play, and the family uses daily. Privacy: the footpath runs very close to the front windows of the house where our living area is and walkers frequently peer in; use of Machinery: the fields adjoining Footpath MT41 are cultivated for cereal crops as well as hay. Livestock is also kept in the fields. Heavy farm machinery frequently needs to use the existing footpath to get to the relevant fields. The farmer is scrupulously careful and lets the applicant know when such machinery is used so children can be kept away from the front of the house. It would be sensible to make sure that heavy farm machinery and the public do not mix. It is very important for the applicant’s piece of mind that the public is as safe as possible; permissive Route: currently there is a permissive route running where the proposed amended footpath will run, this had to be made available whilst connecting the house to the gas source in the field opposite the house. A large proportion of the public now uses
the permissive route because it is in no way less enjoyable than the existing one. The applicant has had many comments from the walkers on how much they enjoy the route.

I am further satisfied that that the proposed diversion would be no less convenient to the public. Many issues were raised at the informal consolation stage. The County Council and the applicant have considered these issues and in consequence have attempted to ameliorate those concerns.

The new path will be well defined, and way marked and will remove the embarrassment that traversing in close proximity private domestic gardens causes a vast majority of the public. The path is recreational rather than serving a specific purpose. The distance is not significantly increased. The applicant has agreed, as a direct consequence to the responses received at the consultation stage, to provide a surface on the new route which will be suitable for pedestrian use and to take other actions. In response to many concerns raised by local residents and the Ramblers representative the applicant has agreed that the path surface will be raised above the level of the surrounding area. The surface will be 2.5 metres wide with edging boards (minimum 10mm x 25mm treated softwood, pegged at maximum 1.5m intervals) either side. A geotextile will need to be laid on the ground. The surface will then have 75mm of compacted type one topped with 25mm of compacted fines and the finished surface will be higher than the edging boards to enable water to flow off the surface. It has been also agreed with the applicant that the surface will be cambered to allow water to run off the sides. The outside edging must have a top soil fill so that any vertical edge on which a walker could twist an ankle will be removed. The surface will be easy to use and free from, and kept free from, any obstruction to the width which will be formalised within the Order. The applicant will also ensure sufficient maintenance of the hedge so as not to encroach onto/over the proposed route.

Consultees also raised concerns about the existing Kissing Gates. The applicant has been informed that at least one or both of these will need to be removed as it is an enclosed path with no livestock; however, it is recognised there are on occasions livestock in the vicinity of Point D. The gates were on loan from the West Kent PROW Team as part of a temporary alternative route whilst works were taking place in the area; for this reason, the gate(s) will be returned, as necessary, to the County Council. The route will therefore be either partially or wholly furniture free, and again, ameliorating the concerns raised at the consultation stage. The applicant has listened to the concerns raised by those responding to the consultation exercise, and the County Council is satisfied the proposed actions will overcome the majority of these concerns. The Order has also been drafted so that it does not take effect until such time as it is certified that the new path has been constructed to the satisfaction of the County Council.

In the County Council’s view, the proposed diversion would alleviate problems for the applicant and would not be in any way substantially less convenient to the public as a result.

The Order will come into force only after it has been confirmed; making and advertising the Order simply provides an opportunity for objections or representations to be made.
Persons considering objecting or making representations relating to the Order are invited to discuss their concerns with Chris Wade, at the address below (Telephone Number 03000 413475).

Objections or representations relating to the Order must be made in writing to Chris Wade at the address above, not later than Friday 25th May 2018.

The right of an objection to an Order is a statutory right, but it should be exercised in a reasonable manner. The costs involved in dealing with objections to Orders may be awarded against objectors in cases of unreasonable behaviour.

If any objections are made and not withdrawn, the Council may refer the Order and objections to the Department of the Environment for determination. An Inspector from the Planning Inspectorate will then either take written representations or hear the objections at a Public Inquiry or Hearing. The Inspector can confirm the Order, confirm it with modifications, or refuse to confirm it. If no objections are received the Council may confirm the Order itself, but it has no power to modify Orders.

Yours faithfully

[Signature]

Mr Chris Wade
Public Rights of Way and Access Service
IN THE BOROUGH OF TONBRIDGE AND MALLING
NOTICE OF PUBLIC PATH ORDER

HIGHWAYS ACT 1980
WILDLIFE AND COUNTRYSIDE ACT 1981
KENT COUNTY COUNCIL
(PUBLIC FOOTPATHS MU65 (PART) AND MT41 TONBRIDGE AND HILDENBOROUGH)
PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT ORDER 2018

The above Order was made on the 19th day of April 2018 under section 119 of the Highways Act 1980 and will divert the entire width of (a) that length of Public Footpath numbered MU65 commencing from a point on the existing line of the path approximately 170 metres to the southwest of Hilden Park Road and running for approximately a further 42 metres in the same direction and then turning in a generally north westerly direction for approximately 24 metres to the junction with Public Footpath MT41. As shown between the points A, B and C on the Order Plan; and (b) that length of Public Footpath numbered MT41 commencing at the afore mentioned Point C and running in a generally north westerly direction for approximately 64 metres to re-join the unaffected length of the path and its junction with Public Footpath MT419. As shown between the points C and D on the Order Plan.

The Order will also provide a new length of Public Footpath (a) A new length of Public Footpath numbered MT41 with a width of 2.5 metres, and commencing at the previously mentioned Point A approximately 170 metres to the southwest of Hilden Park Road and then running in a generally west north westerly direction for approximately 83 metres to then turn to run in a generally south westerly direction for approximately 25 metres to re-join the existing line of the path at the afore mentioned Point D. As shown between the points A, E and D on the Order Plan.

All distances are approximate, all directions are general.

A copy of the Order and Map may be seen free of charge at the offices of the Tonbridge and Malling Borough Council, Gibson Buildings, Gibson Drive, Kingshill, ME19 4LZ or at Kent County Council, Growth Environment and Transport, Invicta House, County Hall, Maidstone, Kent ME14 1XX. Copies of the Order and map may also be bought there.

Any representation about or objection to the order may be sent or delivered in writing to Mr Chris Wade at Kent County Council (address as below) no later than the 25th day of May 2018. Please state the grounds on which it is made.

If no such representations or objections are duly made, or if any so made are withdrawn, the Kent County Council may confirm the Order as an unopposed Order. If the Order is sent to the Secretary of State for the Environment for confirmation any representations and objections which have not been withdrawn will be sent with the Order.

PROW and Access Service
Kent County Council
Invicta House
County Hall
Maidstone
Kent ME14 1XX

Dated: 27th April 2018
IN THE BOROUGH OF TONBRIDGE AND MALLING

HIGHWAYS ACT 1980
WILDLIFE AND COUNTRYSIDE ACT 1981
THE KENT COUNTY COUNCIL
(PUBLIC FOOTPATHS MU65 (PART) & MT41 (PART) TONBRIDGE AND HILDENBOROUGH)
PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT
MODIFICATION ORDER 2018

This Order is made by the Kent County Council ("the authority") under Section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that in the interests of the owner of the land crossed by the footpaths described in Part 1 of this Order it is expedient that the lines of Public Footpath MU65 (part) and MT41(part) should be diverted.

This Order is also made under Section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the Definitive Map and Statement for the County of Kent (Map Sheet (017) [TQ54NE]) requires modification in consequence of the occurrence of an event specified in section 53B(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway shown or required to be shown in the map and statement.

The applicant has agreed to defray any compensation which becomes payable in consequence of the coming into force of this Order and pay any expenses which are incurred in bringing the new site of the public right of way into a fit condition for use by the public.

Tonbridge and Malling Borough Council has been consulted as required by Section 120 (2) of the 1980 Act.

BY THIS ORDER:-

1. The public rights of way over the land situate at Hawden Farm, Hawden Lane, Hildenborough and shown by a bold continuous line on the attached map contained in the Order and described in Part I of the schedule to this Order shall be stopped up seven days from the date that is certified by the County Council that an alternative route suitable for use by the public has been provided thereupon. The Definitive Map for the County of Kent (Map Sheet (017) [TQ54NE]) shall be modified by deleting from it that public right of way.

2. The relevant date of this Order will be as specified in paragraph 1.

3. There shall be seven days from the date that it is certified by the County Council that an alternative route suitable for use by the public has been provided a Public Footpath over the land situate at Hawden Farm, Hildenborough described in Part II of the schedule and shown by a bold broken line on the Map contained in this Order, and thereupon the Definitive Map for the County of Kent (Map Sheet (017) [TQ54NE]) shall be modified by adding the path to it.

3A. The Definitive Statement for the County of Kent (Map Sheet (017) [TQ54NE]) shall be modified as described in Part IV of the schedule to this Order.

GIVEN UNDER THE SEAL OF THE KENT COUNTY COUNCIL THIS
DAY OF APRIL IN THE YEAR TWO THOUSAND AND EIGHTEEN.

THE COMMON SEAL OF THE KENT COUNTY COUNCIL
was hereto affixed in the presence of:

Authorised Signatory
SCHEDULE

PART I

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

The entire width of (a) that length of Public Footpath numbered MU65 commencing from a point on the existing line of the path approximately 170 metres to the southwest of Hilden Park Road and running for approximately a further 42 metres in the same direction and then turning in a generally north westerly direction for approximately 24 metres to the junction with Public Footpath MT41. As shown between the points A, B and C on the Order Plan; and (b) that length of Public Footpath numbered MT41 commencing at the afore mentioned Point C and running in a generally north westerly direction for approximately 64 metres to re-join the unaffected length of the path and its junction with Public Footpath MT419. As shown between the points C and D on the Order Plan.

PART II

DESCRIPTION OF SITE OF NEW PATH OR WAY

A new length of Public Footpath numbered MT41 with a width of 2.5 metres, and commencing at the previously mentioned Point A approximately 170 metres to the southwest of Hilden Park Road and then running in a generally west north westerly direction for approximately 83 metres to then turn to run in a generally south westerly direction for approximately 25 metres to re-join the existing line of the path at the afore mentioned Point D. As shown between the points A, E and D on the Order Plan.

PART III

LIMITATIONS AND CONDITIONS

None

PART IV

MODIFICATION OF DEFINITIVE STATEMENT

The entry for Public Footpath numbered MU65 is modified by the addition of the following: Part diverted, near Hawden Farm House by the Kent County Council (Public Footpaths MU65 (part) and MT41 (part) Tonbridge and Hildenborough) Public Path Diversion and Definitive Map and Statement Modification Order 2018. The new section of path is numbered MT41.

The entry for Public Footpath numbered MT41 is modified by the addition of the following: Part diverted, near Hawden Farm House by the Kent County Council (Public Footpaths MU65 (part) and MT41 (part) Tonbridge and Hildenborough) Public Path Diversion and Definitive Map and Statement Modification Order 2018. The new section of path has a width of 2.5 metres.