

# BROADWATER PATH

## A SUBMISSION TO THE GOVERNORS OF ST GEORGE'S WEYBRIDGE

Compiled by Miles Macleod (Chair, Portmore Park & District Residents Association)

Dear St George's Weybridge Governor

We do hope you will consider this submission and find it relevant and informative. It has been put together in discussion with local residents' groups.

We set out a number of positive reasons for the school to give consent for the Dedication of Footpath 40, Broadwater Path. We also seek to address concerns which we understand Governors may have about the path.

### Broadwater at risk

Members of the Broadwater Conservation Society and countless local residents are dismayed that the future of Broadwater Lake is at risk because St George's Weybridge has opposed the Broadwater Path. Other residents are dismayed that a traditionally used path, instead of being formalised and given an all-weather surface, has now been fenced off with barbed wire.

Broadwater Lake is progressively silting up and desperately in need of substantial dredging works and maintenance. Formalising public access to the lakeside would do more than simply give walkers a better path: it would open the way to public funding for maintaining this historically significant lake, and conserving the exceptional local natural environment.

To this end, fourteen years of effort have gone into getting the agreement of two Councils and all landowners – all except, we now discover, St George's Weybridge – for the formal dedication and proper establishment of Footpath 40 (Broadwater Path).

### Impact on the community

The objection by St George's Weybridge Governors to the proposed formalisation has come as a shock and severe disappointment locally.

On hearing the news, retired local head teacher Thelma Lewis, who for years held nature studies for her primary school pupils along the edge of Broadwater before the lake's condition deteriorated, emailed saying how disappointed she was *'that the plans for the new pathway are now under threat which will undoubtedly delay the dredging of the lake, depriving young learners of a wealth of opportunity for hands on experiences'*.

The path alongside Broadwater has been used informally and unopposed for as long as anyone can remember. Understandably there is a degree of outrage at now suddenly finding barbed wire across a path which has been walked freely for decades.

Formalisation of the path would bring benefits for the school as well as the community, so it is so sad to see a situation of potential conflict.

There are some significant factors relating to the path, which Governors may perhaps not have been aware of in coming to their initial decision.

We outline these in the following sections, and hope that school Governors might wish to reconsider, in the light of the broader picture.

### Maintaining good community relations

Local residents have been meeting with the junior school since soon after its arrival in Thames Street, triggered by a very shaky start in community relations under the previous Head and Bursar. The current relatively good relations between the school and the local community are the product of years of effort.

Along with other residents' association representatives, we have met with Antony Hudson and/or the Bursar three times a year since 2003, and have greatly appreciated their efforts to work with the local community, reduce the negative effects of the school on the locality, and educate successive cohorts of junior school parents to be more considerate.

### Case for the path

There is ample evidence of unopposed use of the path for more than 20 years. Should consent not be granted by the school, residents believe that there is an overwhelming case for the path to be formalised via 'presumed dedication'.

There is determination in the local community to fight for presumed dedication if necessary, for as long as it takes. We are told that it can take 3-4 years. The groundwork is already under way, with the assistance of the Ramblers Association and the Open Spaces Society.

However, some of us hope that dispute with the school will not be necessary, as formalisation of the path would be beneficial both for school and community.

### School concerns

The Bursar has outlined the school's concerns about Broadwater Path as follows:

*"The objection was therefore made by both governors and trustees and made the 2 points that I described at the meeting; that the establishing of a new footpath across school land represents an increase in the risk to the children and presents potential difficulties in fully utilising what would become a separated part of Broadwater Lake for any future educational use. Without producing any identified benefits to the school they therefore do not find it to be in the best interests of the charity".*

We entirely understand that the Board's duties as Governors and Trustees are to ensure that children are safeguarded, and to act in the best interests of the charity, and that these responsibilities must be fulfilled with the utmost diligence. (I write as someone who is a trustee of a local charity, married to a former deputy chair of governors of a local school.)

We hope that Governors will conclude that permitting dedication of the path will be in the best interests of the charity, and will not lead to an increase in safeguarding risk. We set out the case below.

## Factors relevant to the Governors' decision

In the following sections we consider how the decision relates to the best interests of the Charity, and to the safeguarding duties, specifically:

- The importance of the path for the survival of Broadwater Lake
- The status of obligations the school has inherited
- The impact of the school decision on community relations
- How the path may ultimately be dedicated with or without school consent
- Planning constraints on fencing off the strip of land the path occupies
- Balancing factors in the safeguarding risk analysis

### 1/ The route has long been used informally as a path

An informal footpath along the north edge of the historic Broadwater Lake has been in use for as long as anyone can remember, walked by local residents and visitors. The path has been used extensively up until present, freely and unopposed. Various independently developed plans of the walk (e.g. from 1986, 2003 and 2013) can be found online. These reflect informal access. It has not been a formal dedicated public footpath.

### 2/ The lake is in jeopardy from silting up

Without dredging and maintenance, Broadwater Lake silts up, reed beds extend towards its middle, trees grow out into the trapped silt and it evolves into boggy scrubland.

Between 1981 and 1998, Weybridge Angling Club held leases for two periods on Broadwater, and put effort and money into maintaining the lake, including significant dredging, bank repairs, clearing the path around the lake and removing dead trees and rubbish. Likewise, Broadwater Conservation Society has put in maintenance effort for over 30 years, and residents have contributed tens of thousands of pounds.

The progressive silting of lake has led to it becoming foetid in recent summers, particularly along the stretch backing onto Greenlands Road (the stretch now owned by the school). Residents have complained of the smell.

Considerably more funding is required, and public access is key.

### 3/ Dedication of the path opens the way to funding - to the benefit of the public and school

Public access to Broadwater along a dedicated footpath opens the way to public funding for the desperately needed maintenance of the lake.

£8000 of public CIL funding for maintenance of the lake was granted last year with local support, in the belief that dedication of the Broadwater Path was proceeding and would open up the lake formally to public access. That helped fund the removal of about 280 tons of silt and scrubby trees from a central part of the lake. More work is urgently needed, and formal public access is a prerequisite for further funding.

The benefits for the community and for the school from the dedication of the Broadwater Path are very real. Beyond formalising community access to an area of natural beauty it will help conserve that environment and its diverse wildlife.

#### 4/ Work to establish dedication of Broadwater Path included Planning Obligations & funding

Since the millennium, work has been put into getting the footpath formally dedicated as Footpath 40. This was linked to Planning Obligations agreed in the planning consent for the Weybridge Club in 2004 (as a Section 106 Agreement). Subsequent progress has been widely publicised, and strongly supported locally. The school will have noted this as part of its due diligence in purchasing a section of the land concerned.

Funding for the path itself was an obstacle until last year, when Community Infrastructure Levy funding of £110,000 was secured to put down a crushed stone surface. It requires only school consent for dedication of Footpath 40 for the work to proceed.

#### 5/ Inherited Planning Obligations

It is widely understood that, on purchasing the section of land in question, St George's Weybridge inherited planning obligations to allow the Broadwater Path. It is believed that that view is held within Surrey County Council.

It is also believed that, when the school was seeking planning consent for change of use of part of the pony paddock to playing fields, Elmbridge Borough Council was informed in writing by an agent of the school that the school was aware, through due diligence, of its obligations with respect to the path (as set out in the Deed of Planning Obligations). Subsequently, the school appears to have taken a different position on its obligations.

#### 6/ Presumed dedication

In the absence of consent from the school, action can be pursued to establish 'presumed dedication' of the path, based on evidence of continuing uncontested use over the years.

This is something that local people enter into with a heavy heart, as it will set the local community against the school. But there is determination locally to get the path dedicated, one way or the other. There is ample evidence for presumed dedication. Work has started on assembling a very strong case with help from the Ramblers and the Open Spaces Society.

From the school's viewpoint, obstructing the path and entering into a dispute over presumed dedication would be likely to put on hold any plans for the strip of land alongside Broadwater for several years. More significantly, it would give a very negative impression of the degree of concern the school has for the local community.

#### 7/ Planning consent for change of use to playing fields retains the fence alongside the path.

The section of Broadwater Path concerned lies *outside* the area of pony paddock land for which the school got consent to use as playing fields. The fact that the path lies outside the application site was material in granting change of use of the pony paddock to playing fields.

The planning consent for change of use (Elmbridge Borough Council 2015/2864) retains the fence between the paddock and the Broadwater Path.

The planning officer's report, which was considered in coming to a decision on change of use, stated: "*the proposed change of use proposal would not interfere with the development of the footpath along this southern boundary outside the fence.*"

Had the school's planning application suggested otherwise, there would have been objections to the change of use of the land in question.

#### 8/ Issue of planning consent for the School's envisaged new fences and change of use

The school's recent response to local residents refers to an intention of "*fully utilising what would become a separated part of Broadwater Lake*".

However, creating a 'separated part of Broadwater Lake' implies constructing new fencing. Any such proposal for fencing across Broadwater Lake or the adjacent land – and change of use of that land – would require planning consent.

There would be extremely strong objections.

Planning consent for the Weybridge Club (2004/0587), whose application site included the section of Broadwater Lake now purchased by the school, prohibited any such new fencing: "*18 There shall be no new development, including hardstanding and fences, within a buffer zone of 5 metres wide alongside Broadwater Lake and Engine River and within 8 metres of the Desborough Channel. The buffer zones should be undisturbed and maintained for wildlife. They should not include any built development including hardstanding, fences or formal/ornamental garden.*

*Reason: To maintain the character and value of the watercourse and provide undisturbed refuges for wildlife using the river corridor in accordance with policy RTT4 of the Replacement Borough Local Plan 2000."*

#### 9/ Safeguarding

We entirely support the Governors' concern for safeguarding pupils.

We understand that the school will have carried out risk analysis, and – as discussed at our last residents' associations meeting with the Headmaster and Bursar – the school will have identified that by far the greatest potential source of risk to children, as in any school, is internal, which is why the Headmaster and Governing body of St George's Weybridge devote so much care to hiring good trustworthy staff, and to ensuring that there are effective policies for whistle blowing. External risks are in comparison low, but must be guarded against appropriately.

We have been kept aware by the school over the years of the school's actions to fence off the main junior school site more securely, including from neighbours, and have been involved in discussions about how to do this without undue conflict.

Any external risk from the Broadwater Footpath – which does not border the main school site – is extremely low. It is difficult to see how risk would be increased in any way by formalising a path which has long been used informally.

The Broadwater Path land in question is separated from the school by an irrevocable public right of way, Footpath 36, and is accessed via another well used public path which leads to the local Elmbridge-owned community football field.

Furthermore, the Broadwater Path land is separated by a high fence from the land on which the school has planning consent for use for school activities as playing fields.

The retention of that fence, separating the new school playing fields from the Broadwater Path land, is part of the planning consent for the change of use to playing fields. Moving the fence and extending it across the historic lake is not a realistic option, either in planning or in environmental terms.

Governors may note that the school playing field land shares long boundaries with

- the existing Public Footpath 36, which separates it from the main school site
- the path leading to the community football field (a path which continues as the informally used Broadwater Path)
- the public football field itself

Formalising the Broadwater Path would not increase the length of this boundary with paths and land used by the public.



An illustration (based on the Governors' diagram which indicated the new school land in red), showing Public Footpath 36 in yellow, Elbridge-owned community football field land in orange, the Broadwater Path in pale green, and the area of Change of Use to Playing Fields in pale blue (*"change of use would not interfere with the development of the footpath along this southern boundary outside the fence"*). Copies of official plans are included in an accompanying document.

## In summary

It is in the interests of the school, the community and the local natural environment for the path to be dedicated

- Broadwater Lake desperately needs further funding to save it from silting up
- Completing the missing link in the formal dedication of Footpath 40 (Broadwater Path) will enable the CIL-funded work on the path to proceed, and can help save the lake
- At present, the one obstacle is the objection by the St George's Weybridge Governors to the path crossing part of the land recently purchased by school, bordering the lake

There are issues around planning consent for separate school use

- The path is outside the section of land for which the school has planning consent for change of use to playing fields
- It is securely fenced off from that school land, and that fence is part of the consent for change of use (and would require additional consent to remove)
- The school would be extremely unlikely to get planning consent to fence off a section of the lake and bank to create a 'separated area of the lake'
- Fencing on this lakeside was specifically prohibited in earlier planning consents

The path may eventually go ahead even without the school willingly giving permission

- The school may be obliged to allow the path under Planning Obligations it inherited in purchasing the land
- In parallel, activity has started in the local community to pursue the case for Presumed Dedication based on evidence of free use of the informal path for over 20 years

No one wants to see a prolonged dispute between the school and the local community and the school and the local councils. It would cause lasting ill feeling and reputational damage. All the while, the lake would continue to decline and become offensively foetid in summer.

In announcing the school's purchase of the land, the school's Governors stated "*we will explore how the land might benefit the local community as well as the school*".

The Governors now have it within their power to do something which will be of real benefit to the school, the local community, and the local environment.

We hope you will reconsider in the light of the additional evidence. Deciding to permit the path would be beneficial for all.

Yours sincerely

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*Dear Miles*

*Last year I shared in the jubilations on hearing the news that at last recognition was made of the importance of clearing the Oatlands lake and the completion of the pathway. Important to me and all the children that are privileged to benefit from vital learning experiences as well as the wider community being able to enjoy and appreciate its sheer beauty.*

*I write as a now retired head teacher who has been fortunate enough to accompany many groups of children over years gone by [to Broadwater Lake] where we were able to engage in a wide variety of learning experiences including pond dipping, bird watching, flora and fauna studies as well as sketching and painting. All first hand experiences for children, making a real difference and fostering a positive attitude to the importance of caring for and nurturing our environment. Sadly, over the years the lake became more and more polluted and was deemed unsafe.*

*What a great loss!*

*How disappointed I was on hearing from Lesley Birch today that the plans for the new pathway are now under threat, which will undoubtedly delay the dredging of the lake, depriving young learners of a wealth of opportunity for hands on experiences.*

*I can only urge you to challenge any and all objections to this worthwhile project and therefore contribute to making a real difference to the children and wider community.*

*Kind regards*

*Thelma Lewis M.A.*

