

## **Protection for landowners against the establishment of public rights of way and town/village green registration – Section 31(6) of the Highways Act 1980 (“the 1980 Act”) / section 15A of the Commons Act 2006 (“the 2006 Act”)**

### **How can a public right of way or town/village green become established?**

Public rights of way can come into being by deemed dedication. A public right of way such as a footpath or a bridleway may be recorded if it is shown that there has been at least 20 years uninterrupted use of a way by the public ‘as of right’ (without force, secrecy or permission). This is known as ‘deemed dedication’. Anyone can make an application (under section 53 of the Wildlife & Countryside Act 1981) to have a route recorded or upgraded on the Definitive Map and Statement of Public Rights of Way (the legal record).

A town/village green may be registered if it is shown that the inhabitants of a locality, or a neighbourhood within a locality, have used an area ‘as of right’ for a period of at least 20 years for the purposes of lawful sports and pastimes. The 2006 Act allows anyone to make an application to register a piece of land as a new town/village green.

The County Council has a duty to investigate all such applications that are submitted.

### **What can a landowner do to prevent an application being successful?**

A landowner can show that they have no intention of dedicating a public right of way or challenge recreational use in relation to a town/village green if they undertake ‘overt’ actions to make it clear to the public that they have no ‘right’ to cross or be on his/her land.

An overt action may be:

- The erection of carefully worded notices sited in relevant locations
- The locking of a gate at least once a year
- Challenges to users of the way or area, making a note of dates, times and names if possible
- The depositing of a statement and map followed by a subsequent declaration under section 31(6) of the 1980 Act for public rights of way or a statement under section 15A of the 2006 Act for village greens.

### **What does depositing a map and statement do?**

Section 31(6) of the 1980 Act enables a landowner to deposit a statement accompanied with a map, followed by a declaration, with the County Council (“an appropriate council”), acknowledging any existing public rights of way across their land at the same time as declaring that they have no intention to dedicate any further routes to the public.

Section 15A of the 2006 Act enables a landowner to deposit a landowner statement accompanied with a map with the county council (“a commons registration authority”), declaring they wish to bring to an end any period during which persons may have indulged as of right in lawful sports and pastimes on the whole or any part of the land referenced on the map.

## What does depositing a map and statement *not* do?

This process has no effect on the existence of public rights of way already shown on the definitive map or on any applications to record a public right of way by virtue of 20 years' use if this period falls before a map and statement is deposited.

Please note that this process does not apply to cases where an application to record a public right of way is based on historical documentary evidence.

This process is not relevant to any permissive paths on the land.

## Registers

Once a map and statement is lodged with the County Council, the documents and all the details within them become available for public inspection. Registers must be kept in paper and electronic format for the public to view on request. Information in the electronic deposit register that appears on the County Council website will include a copy of the map and statement (signatures will be removed), including name and address of the landowner.

## Making an application

The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 applies to any application made on or after 1<sup>st</sup> October 2013 to:

- a) deposit a map and statement under section 31(6) of the 1980 Act;
- b) lodge a declaration under section 31(6) of the 1980 Act;
- c) deposit a statement under section 15A (1) of the 2006 Act.

## Completion of the application form

1. You should use the application forms set out in **Appendix A** to this document (or one substantially to the same effect).
2. You may add relevant or omit irrelevant particulars.
3. The application **must** be signed by **every** owner of the land to which the application relates, or by their duly authorised representative, and by the secretary or some other duly authorised officer of every owner of the land to which the application relates, which is a body corporate or an unincorporated association. If the form is signed by a duly authorised representative, proof of that authorisation **must** be submitted.
4. The application **must** be accompanied by an Ordnance Map, at a scale of not less than 1:10,560 (so a map at 1:5,000 is acceptable for example). It should show the entire boundary of the land to which the application relates (i.e. the extent of landownership) in **coloured edging**; the area within should not be shaded. In respect of declarations under section 31(6) of the 1980 Act or statements under section 15A(1) of the 2006 Act, reference may be made to a map previously deposited in accordance with these Regulations or a map deposited in accordance with section 31(6) of the 1980 Act before 1st October 2013.
5. The application **must** be accompanied by the appropriate fee (see below).
6. Once the map and statement relating to section 31(6) has been acknowledged as being accurate in respect of public rights of way, you should then complete the declaration (Part C). This form should be used to renew the declaration within 20 years of the original or previous declaration (this has been changed from 10 years).

## Compliance with the General Data Protection Regulations

Kent County Council collects, uses and is responsible for certain personal information about you. When we do so we are regulated under the General Data Protection Regulations which apply across the European Union (including in the United Kingdom) and we are responsible as 'controller' of that personal information for the purposes of those laws.

In the course of protecting land against the establishment of public rights of way and town/village green registration, we collect the following personal information:

- Name
- Contact details (address and telephone numbers)

We use your personal information to process applications to deposit statements, maps and declarations under section 31(6) of the Highways Act 1980 and/or statements under section 15A(1) of the Commons Act 2006.

Due to the nature of the application, your personal information will be held indefinitely electronically and in secure storage.

### Reasons we can collect and use your personal information

The lawful basis on which we collect and use your personal data is that 'processing is necessary for compliance with a legal obligation'.

As we have a statutory basis for collecting your personal data, if you do not provide your contact details, we will be unable to register your deposit.

### Who we share your personal information with

In accordance with the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007 and the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013, the Highways Authority is required to maintain a register which holds information provided in this form, which can be inspected online or in person by members of the public on request.

We will share personal information with law enforcement or other authorities if required by applicable law.

### Your Rights

Under the GDPR you have rights which you can exercise free of charge that allow you to:

- Know what we are doing with your information and why we are doing it
- Ask to see what information we hold about you
- Ask us to correct any mistakes in the information we hold about you
- Object to direct marketing
- Make a complaint to the Information Commissioners Office

Depending on our reason for using your information you may also be entitled to:

- Ask us to delete information we hold about you
- Have your information transferred electronically to yourself or to another organisation
- Object to decisions being made that significantly affect you
- Object to how we are using your information
- Stop us using your information in certain ways

We will always seek to comply with your request however we may be required to hold or use your information to comply with legal duties. Please note: your request may delay or prevent us delivering a service to you.

For further information about your rights, including the circumstances in which they apply, see the guidance from the UK Information Commissioners Office (ICO) on individuals' rights under the General Data Protection Regulation.

#### Keeping your personal information secure

We have appropriate security measures in place to prevent personal information from being accidentally lost, or used or accessed in an unauthorised way. We limit access to your personal information to those who have a genuine business need to know it. Those processing your information will do so only in an authorised manner and are subject to a duty of confidentiality.

We also have procedures in place to deal with any suspected data security breach. We will notify you and any applicable regulator of a suspected data security breach where we are legally required to do so.

#### Who to Contact

Please contact the Information Resilience and Transparency Team at [data.protection@kent.gov.uk](mailto:data.protection@kent.gov.uk) to exercise any of your rights, or if you have a complaint about why your information has been collected, how it has been used or how long we have kept it for.

You can contact our Data Protection Officer, Benjamin Watts, directly at [dpo@kent.gov.uk](mailto:dpo@kent.gov.uk), or you can write to the Data Protection Officer, Sessions House, Maidstone, Kent ME14 1XQ.

The General Data Protection Regulations also gives you the right to lodge a complaint with a supervisory authority. The supervisory authority in the UK is the Information Commissioner who may be contacted at <https://ico.org.uk/concerns> or telephone 0303 123 1113.

For further information visit <https://www.kent.gov.uk/about-the-council/about-the-website/privacy-statement>

## Fees

Applications will not be processed without prior payment of the correct fee as set out below. Fees can be paid by using a Debit or Credit Card over the telephone (a telephone number must be provided within a covering letter accompanying the application) or by cheque (made payable to Kent County Council).

Deposit application comprising Highways and Landowner Statements (or only Landowner Statement) with the Declaration made within 60 days of the acknowledgement of the Deposit - **£360**

Deposit application relating only to Public Rights of Way (Highways only Statements) with the Declaration made within 60 days of the acknowledgement of the Deposit - **£250**

Declaration either relating to a previous Deposit application or submitted after 60 days of the acknowledgement of the Deposit - **£175**

**We now offer a service whereby we will complete the application form for you for an additional fee which will be given on request. All you would need to do is provide us with the extent of the land boundary (on a map we produce) and your signature.**

## How to contact us

For further information and guidance contact:

- PROW & Access Service, Invicta House, County Hall, Maidstone, Kent, ME14 1XX
- Telephone: 03000 41 71 71
- Email: [prow@kent.gov.uk](mailto:prow@kent.gov.uk) for public rights of way matters or [commons.villagegreens@kent.gov.uk](mailto:commons.villagegreens@kent.gov.uk) for commons and town/village green matters

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## Application Form

## Form CA16

## Application Form for deposits under section 31(6) of the Highways Act 1980 and section 15A(1) of the Commons Act 2006

**Please read the following guidance carefully before completing this form**

1. Further guidance relating to completion of this form is available from <http://www.defra.gov.uk/rural/protected/greens/>. Please refer to these separate notes when completing this form.
2. **Parts A and F must be completed in all cases.**
3. The form **must** be signed and dated by, or by a duly authorised representative of, **every** owner of land to which the application relates who is an individual, and by the secretary or some other duly authorised officer of every owner of land to which the application relates which is a body corporate or an unincorporated association.
4. In the case of land in joint ownership **all** the joint owners must complete paragraphs 2 and 3 of Part A and complete and sign the application in Part F, unless a duly authorised representative completes and signs the form on behalf of all of the owners of the land. Paragraph 3 should be completed in full to clearly explain the capacity of each applicant e.g. trustee, landowner's managing agent, executor.
5. 'Owner' is defined in section 61(3) of the Commons Act 2006 and section 31(7) of the Highways Act 1980 and means, broadly, a legal owner of the freehold interest in the land.
6. Where the application relates to more than one parcel of land, a description of **each** parcel should be included in Paragraph 4 of Part A and the remainder of the form should be completed to clearly identify which statement and/or declaration relates to which parcel of land. This may require the insertion of additional wording. See separate notes for further guidance. Multiple parcels of land should be clearly identified by coloured edging on any accompanying map.
7. Where a statement or declaration requires reference to colouring shown on an accompanying map or previously lodged map, the colouring must be clearly specified and must match that shown on the relevant map. For example, if a footpath is specified in a Part C declaration as shown coloured brown, the accompanying map or previously deposited map referred to must reflect that colouring.
8. An application **must** be accompanied by an ordnance map, or (in respect of declarations under Part C or statements under Part D of this form) refer to a map previously deposited in accordance with the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declaration) (England) Regulations 2013 or (if deposited before 1<sup>st</sup> October 2013) in accordance with section 31(6) of the Highways Act 1980. Any accompanying map must be an ordnance map at a scale of not less than 1:10,560 showing the boundary of the land to which the application relates in coloured edging.
9. An application must be accompanied by the requisite fee.
10. 'Appropriate authority' means (a) in relation to a map or statement deposited or declaration lodged under section 31(6) of that Act, an appropriate council (as defined in section 31(7) of the Highways Act 1980); and (b) in relation to a statement and map deposited under section 15A(1) of the 2006 Act, a commons registration authority (defined in section 4 of the Commons Act 2006 and section 2 of the Commons Registration Act 1965). In practice, the appropriate council and commons registration authority will usually be the same body.

**PART A:**

**Information relating to the applicant and land to which the application relates  
(all applicants must complete this Part)**

1. Name of appropriate authority to which the application is addressed:

2. Name and full address (including postcode) of applicant:

3. Status of applicant (tick relevant box or boxes):

I am

(a)  the owner of the land(s) described in paragraph 4.

(b)  making this application and the statements/declarations it contains on behalf of ..... [*insert name of owner*] who is the owner of the land(s) described in paragraph 4 and in my capacity as [*insert details*]

4. Insert description of the land(s) to which the application relates (**including full address and postcode**):

5. Ordnance Survey six-figure grid reference(s) of a point within the area of land(s) to which the application relates (if known):

6. This deposit comprises the following statement(s) and/or declarations (tick all that apply):

Part B (Highways Statement)

Part C (Highways Declaration)

Part D (Landowner Statement)



**PART B:**  
**Statement under section 31(6) of the Highways Act 1980**

[I am/ ..... [*insert name of owner*] is] the owner of the land described in paragraph 4 of Part A of this form and shown edged in ..... [*insert colouring*] on the map accompanying this statement.

*(delete wording in square brackets as appropriate and/or insert information as required)*

[Ways shown..... [*insert colouring*] on the accompanying map are byways open to all traffic.]

[Ways shown ..... [*insert colouring*] on the accompanying map are restricted byways.]

[Ways shown ..... [*insert colouring*] on the accompanying map are public bridleways.]

[Ways shown..... [*insert colouring*] on the accompanying map are public footpaths.]

No [other] ways over the land shown edged in ..... [*insert colouring*] on the accompanying map have been dedicated as highways.

*(delete wording in square brackets as appropriate and/or insert information as required)*

**PART C:**  
**Declaration under section 31(6) of the Highways Act 1980**

1. [I am/..... [insert name of owner] is] the owner of the land described in paragraph 4 of Part A of this form and shown edged in ..... [insert colouring] on the map [accompanying this declaration/lodged with ..... [insert name] Council on ..... [insert day, month, year]].

*(delete wording in square brackets as appropriate and/or insert information as required)*

2. On the ..... [insert day] day of ..... [insert month, year] [I, ..... [insert name of owner's] /my predecessor in title, ..... [insert name]] deposited with ..... [insert name] Council, being the appropriate council, a statement accompanied by a map showing [my/..... [insert name of owner's]] property edged in ..... [insert colouring] which stated that:

[the ways shown ..... [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as byways open to all traffic]

[the ways shown..... [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as restricted byways]

[the ways shown ..... [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as bridleways]

[the ways shown ..... [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as footpaths]

[no [other] ways had been dedicated as highways over

[my/..... [insert name of owner's]] property].

*(delete wording in square brackets as appropriate and/or insert information as required)*

[3. On the ..... [insert day] day of ..... [insert month, year] [I/my/..... [insert name of owner's] predecessor in

title .....[ *[insert name]*] deposited with  
..... *[insert name]* Council, being the appropriate  
council, a **declaration** dated ..... *[insert day, month, year]*,  
stating that no additional ways [other than those marked in the appropriate colour on  
the map accompanying that declaration] had been dedicated as [byways open to all  
traffic] [restricted byways] [bridleways] [footpaths] since the deposit of the  
statement referred to in paragraph 2 above.]

*(delete if not applicable and delete wording in square brackets as appropriate and/or  
insert information as required)*

4. No additional ways have been dedicated over the land edged in .....  
*[insert colouring]* on the map [accompanying this declaration/referenced in paragraph  
1 above] since the statement deposited on ..... *[insert day,  
month, year]* referred to in paragraph 2 above [since the date of the declaration  
referred to in paragraph 3 above] [other than those [byways open to all traffic]  
[restricted byways] [bridleways] [footpaths] marked in the appropriate colour on the  
map accompanying this declaration] and at the present time  
[I/..... *[insert name of owner]*] [have/has] no  
intention of dedicating any more public rights of way over [my/the] property.

*(delete wording in square brackets as appropriate and/or insert information as  
required)*

**PART D:**  
**Statement under section 15A(1) of the Commons Act 2006**

[I am/..... [*insert name of owner*] is] the owner of the land described in paragraph 4 of Part A of this form and shown edged in ..... [*insert colouring*] on the map [accompanying this statement/ deposited with ..... [*insert name*] Council on ..... [*insert day, month, year*]].

[I/..... [*insert name of owner*]] [*wish/wishes*] to bring to an end any period during which persons may have indulged as of right in lawful sports and pastimes on the whole or any part of the land shown edged in ..... [*insert colouring*] on the [accompanying map/map referenced above].

*(delete wording in square brackets as appropriate and/or insert information as required)*

**PART E:**  
**Additional information relevant to the application**

***(insert any additional information relevant to the application)***

**PART F:**  
**Statement of Truth**  
**(all applicants must complete this Part)**

**WARNING:** If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

**I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS FORM ARE TRUE**

**Signature (of the person making the statement of truth):**

**Print full name:**

**Date:**

**You should keep a copy of the completed form**

**General Data Protection Regulations (Data Protection Act 1998) – Fair Processing Notice**

**How and why are we processing your personal data?**

The purpose of this Fair Processing Notice is to inform you of the use that will be made of your personal data, as required by the Data Protection Act 1998.

The appropriate authority (see explanation of definition in above guidance notes) in England is the data controller in respect of any personal data that you provide when you complete this form.

The information that you provide will be used by the appropriate authority in its duties to process applications to deposit statements, maps and declarations under section 31(6) the Highways Act 1980 and statements under section 15A(1) of the Commons Act 2006.

You are providing your personal details which include your name and address to enable the processing of applications to deposit statements, maps and declarations under section 31(6) the Highways Act 1980 and statements under section 15A(1) of the Commons Act 2006 (processing is necessary for compliance with a legal obligation). The information you provide will also be used to fulfil its duty to update the registers in which details of such deposits are recorded under the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007 and the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) England) Regulations 2013. KCC's Public Rights of Way & Access Service is required by the legislation above to maintain a register which holds information provided in this form, which can be inspected online or in person by members of the public on request. It may also be required to release information, including personal data and commercial information, on request under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000. However, KCC's Public Rights of Way & Access Service will not permit any unwarranted breach of confidentiality nor will they act in contravention of their obligations under the General Data Protection Regulations (Data Protection Act 1998).