

Landowner Statements and Declarations Highways Act 1980 Section 31(6) Commons Act 2006 Section 15A

Guidance Note and Application Form

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Produced by: Highways and Transport
Issued: December 2013
Amendment: F – 25th May 2018

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Royal Borough
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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 Borough 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 Borough 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 Borough Council (“a commons registration authority”), to protect that landowner’s land from registration of a town or village green.

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 otherwise shown to carry public rights, including by deemed dedication by virtue of 20 years use, before the map and statement was 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.

Registers and personal data

Once a map and statement is lodged with the Borough 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 Borough Council website will include a copy of the map and statement (signatures will be removed), including name and address of the landowner.

The personal details supplied on this form will be held by the Royal Borough of Windsor and Maidenhead and processed in accordance with the Data Protection Act (DPA) (www3.rbwm.gov.uk/dataprotection) and privacy notices (www3.rbwm.gov.uk/privacy).

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 1st 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 or omit relevant 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 boundary of the land to which the application relates (i.e. the extent of landownership)

in coloured edging. 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.
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 **must** then complete the declaration form to validate and complete the process. 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).

Fees

There is a standard fee of £221 + VAT for the processing of new applications, plus an additional fee of £55 + VAT for updating the register for subsequent declarations.

How to contact us

For further information and guidance contact:

- Public Rights of Way Team, Royal Borough of Windsor and Maidenhead, Town Hall, Maidenhead, Berkshire, SL6 1RF
- Telephone: 01628 796122
- Email: prow@rbwm.gov.uk
- Web: https://www3.rbwm.gov.uk/info/200215/rights_of_way/893/landowner_declaration_register

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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. 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 1st 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 – please ask the appropriate authority for details.

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.

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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 (*delete Parts B, C, or D where not applicable*):

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**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 [*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 [*insert colouring*] on the accompanying map have been dedicated as highways.

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

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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 [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/my..... [insert name of owner's] 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 coloured [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 coloured [insert colouring] on the map [accompanying this declaration/referenced in paragraph 1 above] since the statement dated [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 coloured *[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 coloured *[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)



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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