



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Guidance for the completion of form CA16

**Making a statement or declaration under section
of 31(6) of the Highways Act 1980 or a statement
under section 15A(1) of the Commons Act 2006**

December 2013

© Crown copyright 2013

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at:

<https://www.gov.uk/government/publications/commons-act-2006-landowner-statements-highways-statements-and-declarations-form>

Any enquiries regarding this document/publication should be sent to us at:

commons.villagegreens@defra.gsi.gov.uk

PB 14043

Contents

Introduction	1
Highways statements and declarations – how they work	2
Landowner statements – how they work	3
Completion of the form	4
Part A – information relating to the applicant and land (all applicants must complete).....	4
Part B – highways statement under section 31(6) of the 1980 Act.....	5
Part C – highways declaration under section 31(6) of the 1980 Act.....	6
Part D – landowner statement under section 15A(1) of the 2006 Act.....	7
Part E – additional information	8
Part F – statement of truth (all applicants must complete)	9
Submitting your application	9
Application form	9
Signature.....	9
Map	9
Fee	10

Introduction

1. This guidance is for applicants who wish to complete form CA16¹. It should be read in conjunction with the guidance at the beginning of that form. The advice below focuses on completion of the form and does not provide comprehensive advice on the law of highways and town and village greens.
2. Using form CA16, landowners or their representatives can:
 - deposit statements (referred to throughout this guidance as ‘highways statements’ under section 31(6) of the Highways Act 1980 (the 1980 Act);
 - lodge declarations (referred to throughout as ‘highways declarations’) under section 31(6) of the 1980 Act; and
 - deposit statements (referred to throughout as ‘landowner statements’) under section 15A(1) of the Commons Act 2006 (the 2006 Act).
3. Landowner statements were introduced on 1 October 2013 and allow landowners to prevent their land being registered as a town or village green, provided they are deposited before there has been 20 years recreational use of the land as of right. See ‘Landowner statements – how they work’ below.
4. Highways statements and highways declarations under section 31(6) of the 1980 allow landowners to prevent their land being recorded as highway on the definitive map on the basis of presumed dedication. A highways statement or a previous highways declaration must be followed by a highways declaration within a 10 year period. This period was extended to 20 years on 1 October 2013 but that extended period does not apply to highways statements deposited and highways declarations lodged before that date.
5. Please note that land can be recorded as highway through other means, e.g. on the basis of historical evidence, which **are not covered by this guidance**. Therefore all references to the ‘recording of land as highway on the definitive map’ relate to applications under section 31 of the 1980 Act.
6. The process was amended on 1 October 2013 to allow you to make a single application to prevent your land being recorded both as highway on the definitive map and registered as a town or village green. See ‘Highways statements and declarations – how they work’ below.

¹ The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 provide the application procedure and form CA16.

7. Your application must be submitted to the appropriate authority, which is the top-tier local authority for the area in which your land is located. The appropriate authority will be one of the following: county council, metropolitan borough council, unitary council (where the district or borough and county council are combined) or London borough council.
8. If your land lies within the borders of more than one appropriate authority you should submit a separate application to each of them. For example, 70% of your land lies within the area of Authority A and 30% is within the area of Authority B. If you want to prevent that land being recorded as highway on the definitive map or registered as a green, or both, you will need to apply to Authority A regarding the 70% and submit a separate application to Authority B in relation to the 30%. The exception to this rule is where appropriate authorities have a straddling agreement in place, but this would only apply to landowner statements. A straddling agreement is where two authorities whose land adjoins have agreed that one of them takes responsibility for the land of the other.
9. If any highways statements, highways declarations or landowner statements have been made in relation to land which is then sold to another party, the transfer has no bearing on their validity. For example if Landowner A deposited a highways statement in relation to his land on 1 December 2003 (so the relevant period is 10 years) and sold his land to Landowner B in August 2013, then the latter can prevent his land being recorded as highway on the definitive map under the 1980 Act by lodging a declaration no later than 30 November 2013.
10. Whilst the process for depositing highways statements and lodging highways declarations has been combined with the process for depositing landowner statements, they work in different ways as explained below.

Highways statements and declarations – how they work

11. Land can be recorded as highway on the definitive map on the basis of “presumed dedication”. This means that if the public has used land as a way - for example, as a restricted byway – without force, secrecy or permission for 20 years and the landowner did not interrupt that use, it could give rise to the presumption that the land is highway.
12. You as landowner² can deposit a highways statement and map which acknowledge whether any ways have already been dedicated³ across your land as highway (i.e. you admit to the existence of those ways whether they were dedicated by you or

² “Owner” is defined in section 31(7) of the 1980 Act as “a person who is for the time being entitled to dispose of the fee simple in the land.”

³ In Defra’s view, reference to “dedicated” here means dedicated by the landowner (or his/her predecessors), not highways created through other means, e.g. under statute.

any previous owner). If any ways do exist across your land, you must indicate in the highways statement what types of way they are and show on the map where on your land they are located.

13. You may then within 20 years⁴ of the statement lodge a highways declaration that confirms you did not dedicate any additional ways over the land, or only those mentioned in the declaration, since the date of the highways statement. By completing both steps you confirm your intention not to dedicate any ways, or only those ways mentioned, during the time between the date of the statement and the date of the declaration. Declarations do not affect anything which took place prior to the deposit of a statement.
14. You cannot simultaneously deposit a highways statement and lodge a highways declaration in relation to the same land. In order for a declaration to be effective as evidence against presumed dedication, the lodging of the declaration must take place after the deposit of a statement, no more 20 years later.
15. However, if an application is submitted under section 31 of the 1980 Act to record your land as highway on the definitive map, it is advisable to lodge a declaration as soon as possible thereafter (and not wait until the end of the 20 (or 10) year period, possibly several years hence) as a prompt lodgement in response to the application would be evidence of your intention not to dedicate the land as highway. You must lodge your declaration before the land is recorded on the definitive map.
16. In order to prevent any of your land being recorded on the definitive map as a highway, you must lodge a further highways declaration within each successive 20 year period thereafter.
17. Highways statements deposited or declarations lodged prior to 1 October 2013 continue to have effect. However the relevant period for these deposits and lodgings is 10 years, rather than 20 years⁵. Therefore if you deposited a highways statement or lodged a declaration before that date, but want to benefit from the 20 year period, you need to lodge a new highways declaration within the 10-year period. The new declaration would then be subject to the 20 year period.

Landowner statements – how they work

18. Anyone can apply under section 15(1) of the 2006 Act to register land as a town or village green. The application must show that the land was used by a significant

⁴ The period was 10 years but was extended to 20 years on 1 October 2013.

⁵ A saving has been made to provide that the 20 years does not apply to applications made before 1 October 2013. See article 4 of The Growth and Infrastructure Act 2013 (Commencement No.3 and Savings) Order 2013 (SI 2013/1766) which was made on 14 July 2013.

number of the local inhabitants 'as of right'⁶ for lawful sports and pastimes for at least 20 years.

19. Landowner statements work by bringing to an end any period of use of the land as of right for recreation, i.e. it stops the clock on the number of years of use. If the land has been used for less than 20 years, your deposit prevents the users obtaining the 20 years they need to apply.
20. If you deposit a landowner statement in relation to your land but recreational use has already taken place over it for 20 years or more, then your deposit triggers the one year period of grace⁷. This gives the local inhabitants one year to apply to register the land as a town or village green. They cannot apply any later than one year from the date of your deposit.
21. If recreational use of the land as of right continues after a landowner statement is deposited then a new period of use would begin to accumulate. However, if you deposit another landowner statement within 20 years of the previous deposit, it will again prevent the users reaching the requisite 20 years, i.e. the clock will be reset to zero years.

Completion of the form

22. You must complete Parts A and F.
23. You need to complete at least one of Parts B to D, depending on what you want to achieve. For example if you want to protect your land from being recorded as highways on the definitive map or registered as a green, and there has been no previous deposit or lodging (by you or previous owners) in relation to your land, then you should complete Parts B and D.
24. You should complete Part E if you want to add any additional information to support your application.

Part A – information relating to the applicant and land (all applicants must complete)

25. At Q1 insert the name of the appropriate authority for the area in which the land is located (e.g. county council).
26. At Q2 insert your full name and address even if you are not the landowner.

⁶ 'As of right' means without permission, without force and without secrecy.

⁷ This is allowed under section 15(3) of the 2006 Act (where use of the land as of right has ceased before an application is made).

27. At Q3 indicate whether you are either the landowner or a person authorised by the landowner to apply on the landowner's behalf. If the latter, you must state the name of the landowner and indicate the capacity in which you are applying, e.g. land agent.

28. At Q4 describe the land to which your application relates, including the full address and postcode. If your application relates to multiple parcels each separate parcel should be listed and described.

29. At Q5 provide an Ordnance Survey grid reference of a point within the land, if known. A grid reference point should be provided for each separate parcel.

30. At Q6 indicate whether your application is to:

- deposit a highways statement – if so, complete Part B;
- lodging a highways declaration – if so, complete Part C;
- deposit a landowner statement – if so, complete Part D;
- deposit a highways statement and a landowner statement – if so, complete Parts B and D;
- lodge a highways declaration and deposit a landowner statement – if so, complete Parts C and D;
- deposit a highways statement and a landowner statement and lodge a highways declaration – if so, complete Parts B, C and D. You cannot simultaneously deposit a highways statement and lodge a highways declaration in relation to the same land. However you can use the same application to deposit a highways statement in relation to parcel A and lodge a highways declaration in relation to parcel B, and a landowner statement in relation to parcels A and B.

Delete whichever of Parts B, C or are not applicable to your application.

Part B – highways statement under section 31(6) of the 1980 Act

31. Complete Part B if you want to deposit a highways statement. Delete or amend the words in square brackets, or insert words, to suit the circumstances of your highways statement.

First paragraph

32. Tailor the text to indicate whether you are the landowner or applying on the landowner's behalf. If the latter, insert the name of the landowner(s).

33. Insert the name of the colour used to delineate the land shown in the map. Do not colour the whole of the land, just its edge (meaning the inside of its boundary). Please note that a highways statement must be accompanied by a map of the land to which it applies. Therefore, if the land is edged red on the map, insert the word 'red'.

Second paragraph

34. If you admit to any ways on your land then, in the relevant sentence, indicate the colour used to delineate the way(s) on the map. Delete each sentence that does not apply. For example, if a 'byway open to all traffic' exists on the land but no other type exists, then you should retain the top sentence and insert the name of the colour used to delineate it on the map, then delete the other three sentences.

Third paragraph

35. Tailor the text to indicate that either:

- no ways exist on the land (if so, please delete the first set of square brackets); or
- no other ways exist on the land (if so, please retain the first set of brackets).

In either case, insert the name of the colour used to delineate the land on the map.

Part C – highways declaration under section 31(6) of the 1980 Act

36. Complete Part C if you want to lodge a highways declaration, i.e. to follow up a previously deposited highways statement in order to protect the land from registration as a highway. Delete or amend the words in square brackets, or insert words, to suit the circumstances of your highways declaration.

First paragraph

37. Tailor the text to indicate whether you are the landowner or applying on the landowner's behalf. If the latter, insert the name of the landowner(s).

38. If your highways declaration is accompanied by a map, insert the name of the colour used to delineate the land shown in the map. Do not colour the whole of the land, just the edge (meaning the inside of its boundary). Therefore if the land is edged red on the map, insert the word 'red'. Note that highways declarations can refer back to the map which accompanied a previous highways statement or highways declaration, so you can refer to that map rather than provide a new one.

39. For the third square brackets, if you intend to:

- provide a new map to accompany your highways declaration, delete the words from "lodged" to the end of the sentence; or

- refer back to the map which accompanied the highways statement, delete the words “accompanying this declaration” and insert the date on which the map accompanying the highways statement and map was deposited.

Second paragraph

40. Complete this paragraph if this is the first highways declaration following a previously deposited highways statement (it does not matter if the highways statement was deposited by the previous owner). If you are lodging a repeat highways declaration, i.e. following-up a highways declaration lodged approx. 10 or 20 years ago, please delete paragraph 2 and complete paragraph 3 instead.
41. Insert the date on which the highways statement was deposited. Tailor the text to indicate whether you or other persons deposited the highways statement. Insert the name of the appropriate authority with which it was deposited and indicate whether you or someone else owned the land at the time of the highways statement (if someone else owned the land, insert their name). Insert the name of the colour used in the map to delineate the land to which the highways statement applied. You should also delete any of the following sentences if those ways were not marked on the map which accompanied the highways statement (i.e. because you or the previous landowner did not admit to the existence of those ways). However, you must retain and complete any sentences where the existence of that type of way was admitted to in the highways statement. The final sentence should be completed in all cases and tailored according to the circumstances.

Third paragraph

42. Complete this paragraph if you are lodging a second or subsequent highways declaration in relation to the land.
43. Tailor this much in the same way as instructed in paragraph 39, but in reference to a previously lodged highways declaration rather than a highways statement.

Fourth paragraph

44. Complete this paragraph to confirm that no new ways have been dedicated since the highways statement was deposited or the highways declaration was lodged, or that no new ways other than those you expressly describe in this paragraph have been dedicated since the previous deposit or lodging. Tailor the text to reflect the previous deposit or lodging.

Part D – landowner statement under section 15A(1) of the 2006 Act

45. Complete Part D if you want to deposit a landowner statement. Delete or amend the words in square brackets, or insert words, to suit the circumstances of your landowner statement.

First paragraph

46. Tailor the text to indicate whether you are the landowner or applying on the landowner's behalf. If the latter, insert the name of the landowner(s).
47. Insert the name of the colour used to delineate the land shown in the map. Do not colour the whole of the land, just its edge (meaning the inside of its boundary). Therefore if the land is edged red on the map then you should insert the word 'red'.
48. For the third set of square brackets, if this application:
- is the first landowner statement for the land, delete the words from "deposited with" to the end of the sentence;
 - follows a previous landowner statement for the land, delete the words "accompanying this statement" and insert the date on which the original landowner statement and map were deposited with the authority. You do not need to include a map if your new landowner statement relates to land for which a landowner statement was previously deposited.
49. In cases where you are making a second or subsequent landowner statement but wish to add a new bit of land, you will need to provide a map for the new portion.

Second paragraph

50. Tailor the first two sets of square brackets to fit the circumstances of ownership and the deposit of the landowner statement.
51. In the third square brackets insert the name of the colour used to delineate the land shown in the map. Do not colour the whole of the land, just its edge (meaning the inside of its boundary). Therefore if the edge of the land is marked red on the map, insert the word 'red'. If your statement refers to a map previously deposited with the authority, then specify the colour used in that map.
52. For the fourth set of square brackets, delete the words "map referenced above" if this is the first landowner statement for the land, or delete the words "accompanying map" if this landowner statement refers to a map previously deposited with the authority.

Part E – additional information

53. Complete this Part if you have further information to add which is relevant to the deposit but has not been sufficiently covered elsewhere in the form.

Part F – statement of truth (all applicants must complete)

54. Sign and date the statement of truth: you are verifying that the information in the form is correct. Incorrect information could invalidate your deposit or lodging.
55. If you dishonestly enter any information, or make a statement you know to be untrue or misleading, then you may be committing fraud under section 1 of the Fraud Act 2006, and could be imprisoned for up to 10 years or be subject to an unlimited fine.

Submitting your application

56. There are certain requirements related to your application which must be in order for it to be processed by the authority. These are described below.

Application form

57. Your application must be made either in form CA16 or a form substantially to the same effect. You can omit any information unnecessary and/or insert information relevant to the facts of your deposit or lodging.

Signature

58. You must complete Part F by signing, printing your name and dating your application. You can only apply if you are the landowner or a duly authorised representative of the owner(s).
59. Where you own the land jointly with others:
- if applying jointly, each owner must complete Part F; or
 - a duly authorised person may complete Part F on behalf of each or all owners (e.g. the person who confirmed at question 3(b) that he was applying on behalf of the owner as his land agent).
60. You should explain in paragraph 3 of Part A in what capacity you are applying e.g. landowner, managing agent, trustee. If the owner is a body corporate or an unincorporated association, the application must be signed by the secretary or another duly authorised officer.

Map

61. You must include an Ordnance Survey map with your application unless it refers to a map previously deposited or lodged with the appropriate authority (it does not matter if this took place before 1 October 2013).

62. Your map must be at a scale not less than 1:10,560 and must show the boundary of the relevant land in coloured edging. Do not colour the whole of the land, just its edge (meaning the inside of its boundary). If your application relates to multiple parcels of land, all parcels should be identified by coloured edging.

Fee

63. Your application must be accompanied by the correct fee. The appropriate authority has the power to set its fees so you should enquire about the correct fee before you apply. The authority may need to ask you for some details about your application (e.g. amount of land, which of Parts B, C or D of the form you have completed).