

Consultation document



Public Rights of Way

Statement of Priorities - Section 53 Applications



Consultation closes: 23 March 2026

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Public Rights of Way – Statement of Priorities, Section 53 Applications

1. Introduction

Kent County Council (KCC) is asking for views on a proposed change to its Statement of Priorities, which sets out how the council processes Section 53 applications.

The Definitive Map and Statement (DMS) is the legal record of Public Rights of Way. Section 53 of the Wildlife and Countryside Act 1981 places a legal duty on KCC as the Surveying Authority to ‘keep the DMS under continuous review’. Under Section 53 anyone can apply to KCC to amend the DMS to add, upgrade, downgrade, or delete a Public Right of Way.

KCC has a duty to investigate and determine every application it receives in accordance with its Statement of Priorities. Investigation involves undertaking interviews with witnesses and landowners, documentary research and consultation, amongst other things.

Our current policy is to process applications in the order we receive them except when:

- the physical existence of the claimed route is threatened by development
- the resolution of an application would enable the council to substantially improve public safety
- the claimed route may result in a significant improvement to the network.

In such instances a case may be speeded up.

Applications can be made by using user and/or historic evidence. User evidence is proof that a path/route has been used for at least 20 years, and that this use has been ‘as of right’ - meaning without force, permission or secrecy. Historic (documentary) evidence is proof recorded in the past and may include sources such as enclosure awards, tithe maps, Finance Act maps, Ordnance Survey maps, and railway plans.

In recent years, KCC has seen a large increase in applications based on historic evidence, which has led to a significant increase in the backlog of applications. This document provides more information on:

- why the backlog in applications has increased so significantly
- the impact this is having and why we are proposing to change our policy
- the proposed change to how KCC processes Section 53 applications to make sure our policy remains fit for purpose.

You can find information from page 5 on how to tell us your views and contact us if you have any questions or need any support to take part in the consultation.

2. Background

In 2000, the Government through the Countryside and Rights of Way Act introduced a deadline, known as the 'cut-off date', for the recording of unrecorded Public Rights of Way on the basis of historic evidence.

After this date – originally specified as 1 January 2026 – it would no longer be possible to record Public Rights of Way on the basis of historic evidence. The purpose of this was to provide, from the cut-off date, certainty to landowners, local authorities and users as to the nature and extent of public rights over land. Applications made on the basis of user evidence (over a period of at least twenty years) could continue to be made.

In recent years, there has been considerable debate about the merits of the cut-off date, and several changes in Government policy. In early 2022, the Government announced it intended to repeal the date entirely. However, in October 2023, it reversed this decision and instead reinstated the cut-off date, extending it to 1 January 2031.

On 26 December 2024, the Government announced that this revised cut-off date (2031) would also be repealed when parliamentary time allows. This means it will continue to be possible to submit applications to record Public Rights of Way based solely on historic, documentary evidence. It is hoped that removing the date will reduce the rate at which applications are submitted and, in the longer term, the overall number of applications.

Because the future of this legislation remains uncertain, and the cut-off-date has not yet been formally repealed, stakeholders are continuing to research and submit applications. In Kent, the number of applications has gradually increased over time, especially since 2020, as the 2026 cut-off date drew closer.



3. Why are we considering making changes to our policy?

Over the past five years, KCC has seen a substantial rise in Section 53 applications, particularly those based on historic evidence. This has resulted in a significant increase in the backlog for allocating these applications. As of 26 January 2026, 104 applications remain unallocated, which means they have not yet been assigned to a KCC officer for investigation and processing.

The number of applications received each year varies. KCC received 37 applications in 2020, 19 in 2021, 21 in 2022, 7 in 2023, 39 in 2024 and 41 in 2025.

The next application due to be allocated was submitted in April 2021, which suggests a backlog of just over four years. However, as only 12 to 14 applications are typically determined each year, the actual backlog is closer to eight or nine years.

Of the 104 unallocated applications, 80 are based on pre-1949 historic evidence and only 24 on user evidence.

The rapid increase in historic evidence applications has lengthened the time between submission and investigation. This delay has a greater impact on user-based applications because:

- the quality of user evidence deteriorates over time as memories fade, and
- the ways/routes are/were in use prior to the submission of an application, which means their loss is more greatly felt by the users of the route.

By contrast, historic applications typically relate to routes that have not been used in living memory, and the documentary evidence supporting them does not deteriorate over time.

Because of the significant change in the basis on which applications are made we are reviewing the Statement of Priorities to make sure it remains fit for purpose.



4. What are we proposing to change?

We are proposing a change to our Statement of Priorities in Appendix 1 (Operational Management) of our Countryside Access Improvement Plan (CAIP), so that user-based applications are prioritised. This means taking them out of submission order so that for every historic-based application allocated, one user-based application would be allocated.

Both types of application would continue to be allocated in the order they were received, unless one of the acceleration criteria in paragraphs 4.14–4.25 of the Statement of Priorities applies (summarised in the introduction of this document).

The proposed policy change would continue to ensure that historic-based applications are investigated, while significantly reducing the backlog for user-based applications.

Appendix A at the end of this document sets out the proposed new draft of sections 4.26 to 4.29 of the Statement of Priorities. The current version can be found on the consultation webpage.

Please note that only the section in relation to Section 53 applications of the CAIP Operational Management – Appendix 1 document is being consulted on. The rest of the document and the CAIP will remain the same and are not part of this consultation.

5. Equality analysis

To help make sure we are following the Equality Act 2010, we have carried out an Equality Impact Assessment (EqIA) on our proposal. This looks at how the proposed change in policy might affect people with protected characteristics, such as age, disability, gender identify/transgender, pregnancy and maternity, marriage and civil partnerships, race, religion or belief, sex and sexual orientation. We also consider the impact on people with caring responsibilities.

The EqIA is available on our website: www.kent.gov.uk/statementofpriorities or in paper copy on request.

The EqIA identifies potential positive impacts from the proposed change for older people. Applications based on user evidence generally require a period of 20 years use of a route to be demonstrated and this can relate to any period of 20 years in



living memory. Applications are often submitted by older people and are supported by evidence very often from elderly members of the community.

The current Statement of Priorities states that applications are to be processed in order of receipt. This can mean a delay in determining applications of up to eight years. Over this time user-based evidence deteriorates as recollection becomes less clear or sadly witnessed pass away. The proposed amendment to the Statement of Priorities will help address this issues.

There could also be a negative impact for applicants of the historic/documentary based applications as it may take longer for their applications to be determined. There is currently no right to transfer an application to someone else which could mean if an applicant were to pass away, they could lose their right of appeal should the council decline to make an Order. However, the application would still be determined and the evidence which supports that application would not diminish over time.

We will use the feedback from this consultation to review and, if needed, update the EqIA. The EqIA will be considered as part of our decision-making process.

We welcome your comments on the EqIA and any suggestions about equality and diversity that you think we should consider.

6. Have your say

The consultation will run for six weeks from the 10 February to 23 March 2026.

Please tell us your thoughts on the proposed changes to our Statement of Priorities by visiting www.kent.gov.uk/statementofpriorities to complete the online questionnaire.

If you have any questions regarding the consultation or require a paper copy of the questionnaire, please email PROW@kent.gov.uk.

If you need any of the consultation material in another format or language, please email: alternativeformats@kent.gov.uk or telephone: 03000 421 553 (text relay: 18001 03000 421 553). This phone number goes to an answer machine which is monitored during office hours.

Please ensure your response reaches us **by midnight on Monday 23 March 2026.**



Next steps

Following the end of the consultation, all of the responses will be analysed and a consultation report will be produced, summarising the feedback we have received.

The feedback from this consultation is expected to be reported to Members at the Growth, Economic Development and Communities Cabinet Committee in May 2026 and will be taken into consideration before a decision is taken by the Cabinet Member for Community and Regulatory Services.

The consultation report and details of the decision will be published on the consultation webpage. The report can be made available in paper copy or in alternative formats on request.



7. APPENDIX A – draft updated Statement of Priorities

Extract from CAIP Operational Management – Appendix 1

Please note that the Countryside Access Improvement Plan (CAIP) Operational Management – Appendix 1 is still relevant to all other areas and it is only the section in relation to Section 53 applications which would be updated and superseded.

The following would replace sections 4.26 to 4.29 of the CAIP Operational Management – Appendix 1. The text in purple highlights the proposed change. The current CAIP Operational Management Appendix 1 can be found on our website: www.kent.gov.uk/statementofpriorities.

Evidential Modification Orders

4.26 The County Council as Surveying Authority has a duty to keep the Definitive Map and Statement under continuous review (Wildlife & Countryside Act 1981 S. 53). This includes all evidential events giving rise to the modification of the Definitive Map and Statement (S.53 (3) b and C). The County Council is often under pressure to investigate certain cases in advance of others. A policy is required to set out the priority that will normally be applied by the County Council to individual cases and hence the order in which applications will be dealt with.

4.27 **Modification Order cases will normally be investigated in the order in which applications are received, except in any of the following circumstances where a case may be investigated sooner:**

4.28

- Where it will satisfy one or more of the relevant key principles set out in paragraphs 4.14 – 4.25 of the 2013 CAIP Operational Management – Appendix A.
- Where an application relies primarily on user based evidence; for every one historical based application allocated, one user based application will be allocated.
- Where the physical existence of the claimed route is threatened by development
- Where investigation of a case would involve substantially the same evidence as a route currently under investigation or about to be investigated

4.29 The above exceptions will enable the authority to prioritise certain applications where this is appropriate and likely to be in the public benefit. Please refer to the Guidance notes for modification orders for more information on making an application.