

REGULATION COMMITTEE

Thursday, 16th October, 2025

2.00 pm

**Council Chamber, Sessions House, County Hall,
Maidstone**





AGENDA

REGULATION COMMITTEE

Thursday, 16th October, 2025, at 2.00 pm Ask for: **Hayley Savage**
Council Chamber, Sessions House, County Telephone: **03000 414286**
Hall, Maidstone

Membership (15)

Reform UK (11): Mr O Bradshaw, Mr W Chapman, Mrs M Fothergill, Mr T Mallon,
Mr R Mayall, Mr T Mole, Mr M Paul, Mrs B Porter, Mrs S Roots,
Mr T L Shonk and Mr D Sian

Liberal Democrat (2): Mr A Ricketts and Mr C Sefton

Green (1): Mr S Heaver

Conservative (1): Mr H Rayner

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Election of Chair
2. Election of Vice-Chair
3. Apologies and Substitutes
4. Declarations of Interests by Members in items on the Agenda for this meeting.
5. Minutes (Pages 1 - 28)
 - (a) Committee: 21 January 2025
 - (b) Member Panel: 10 December 2024 and 18 March 2025
 - (c) Mental Health Guardianship Sub-Committee: 15 January 2025 – for noting
6. Update from the Public Rights of Way and Access Service (Pages 29 - 32)
7. Other Items which the Chairman decides are Urgent

Motion to exclude the press and public for exempt business

That under section 100A of the Local Government Act 1972 the public be excluded from the meeting on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 5, 6a and 6b of Part 1 of Schedule 12A of the Act.

By Virtue of Paragraph 5

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

By Virtue of Paragraph 6a

Information which reveals that the authority proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person

By Virtue of Paragraph 6b

Information which reveals that the authority proposes to make an order or direction under any enactment.

EXEMPT ITEMS

(During these items the meeting is likely NOT to be open to the press and public)

8. Update on Planning Enforcement Cases (Pages 33 - 58)

Benjamin Watts

Deputy Chief Executive (Monitoring Officer)

03000 416814

Wednesday, 8 October 2025

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 21 January 2025.

PRESENT: Mr S C Manion (Chairman), Miss S J Carey (Vice-Chair), Mr D Beaney, Mr I S Chittenden, Mr P Cole, Mr M C Dance, Ms J Meade, Mr J M Ozog, Ms L Parfitt and Mr H Rayner

IN ATTENDANCE: Team Leader - Planning Enforcement, Planning Enforcement Officer, Mr G Rusling (Head of Public Rights of Way & Access), Mrs S Thompson (Head of Planning Applications Group), Ms H Savage (Democratic Services Officer), Mr A Ballard (Principal Democratic Services Officer) and Ms S Bonser (Solicitor)

UNRESTRICTED ITEMS

81. Membership
(Item 1)

RESOLVED to note that Dr Sullivan had joined the committee.

82. Apologies and Substitutes
(Item 2)

Apologies were received from Mr Bond.

Mr Baldock had given his formal apologies but was attending the meeting virtually.

83. Declarations of Interests by Members in items on the Agenda for this meeting.
(Item 3)

There were no declarations of interest.

84. Minutes of the meeting held on 17 September 2024
(Item 4)

RESOLVED that the minutes of the Committee meeting on 17 September 2024 are correctly recorded and that they be signed by the Chairman.

85. Home to School Transport Appeals Update
(Item 5)

1. The Principal Democratic Services Officer introduced the report which provided an overview of Home to School Transport Appeal statistics for the period between 1 January 2024 and 31 December 2024 and a brief comparison with statistics from 2010 to 2023. The Principal Democratic Services Officer explained that the number of successful appeals had significantly reduced compared to previous years.
2. Further to questions and comments from Members it was noted that:
 - In making their decision Panel Members were required to consider the costs to the Council in balance with the circumstances of the case.
 - Panel Members and officers were commended for their work and the savings made.
 - In relation to 16 Plus transport appeals, the transport team provided families with information relating to alternative options that may be available to them before the appeal stage, for example, school bursaries.
 - Paper based applications had less success at being upheld compared to virtual and face to face applications due to the difficulty in obtaining additional relevant information.
 - Two investigations by the Local Government and Social Care Ombudsman were outstanding and Mr Ballard suggested that an online briefing be delivered at a future date to look at the findings and explore best practice.
3. RESOLVED that the report be noted.

86. Update from the Public Rights of Way and Access Service - Common Land and Village Greens
(Item 6)

1. The Public Rights of Way and Access Service Manager introduced the report and explained the Council's role as a 'Village Greens & Commons Registration Authority'. The Public Rights of Way and Access Service Manager explained that most applications received were based on an assertion of use as of right over a period of 20 years by local inhabitants. There was an increase in applications from developers and parish councils to voluntarily register land as village greens. Over the last year six applications had been determined by the Council with two requiring a public inquiry where evidence was balanced or contradictory and there was a need for evidence to be independently assessed. Two applications for the registration of common land and amendments to it were with the Planning Inspectorate for determination.

2. In relation to Public Rights of Way (PROW) the government announced at the end of 2024 that the cut-off date for the Definitive Map and Statement for applications based on historic documentary evidence would be repealed. The Public Rights of Way and Access Service Manager said this was positive from an operational viewpoint due to the upsurge in applications that had been received based on historical documentary evidence.
3. The committee expressed their gratitude to Ms Melanie McNeir, Public Rights of Way and Commons Registration Officer, for her work in relation to village green applications.
4. RESOLVED that the report be noted.

87. Update on Planning Enforcement Issues
(Item 7)

1. The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 17 September 2024. She said workloads remained high, and work continued with partners including the Environment Agency who had bespoke powers relating to waste from central government.
2. The Head of Planning Applications drew Members' attention to some of the strategic cases that had the benefit of Environment Agency Restriction Orders which were proving to be very effective.
3. RESOLVED that the actions taken or contemplated in the report be noted and endorsed.

88. Other Items which the Chairman decides are Urgent
(Item 8)

There were no urgent items.

EXEMPT ITEMS
(Open Access to Minutes)

(Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act)

89. Update on Planning Enforcement Cases
(Item 9)

1. The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 17 September 2024.
2. The Planning Enforcement Team Leader and the Head of Planning Applications gave an update on unauthorised planning enforcement matters and permitted compliance work setting out actions taken or contemplated at Hoads Wood, Bethersden, Ashford; Swanton Lane, Littlebourne, Canterbury; Warden Point/Third Avenue, Eastchurch, Isle of Sheppey; Raspberry Hill Park Farm, Iwade; Bell Lane Farm, Minster-on-Sea, Isle of Sheppey; Ancient Woodland Adjacent to Knoxfield Caravan Site, Dartford; Oaktree Farm, London Road, Halstead, Sevenoaks; Manor Farm, Willow Lane, Paddock Wood; Knowle Farm, Malling Road, Teston; Court Paddock Farm, Ightham; Former Travel Lodge/Brother Hood Woods, Boughton Bypass Dunkirk; The Pines Nursery, Gravel Castle Road, Barham; Pike Road/Thornton Kennels, Tilmanstone; Cloverleaf, Bad Munstereifel Road, Ashford; Cube Metals, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone; R S Skips, Apex Business Park, Shorne; East Kent Recycling, Oare Creek, Faversham; Borough Green Sandpits, Platt; H & H Celcon, Ightham; Shelford Landfill, Broad Oak Road, Canterbury; Land at 54, The Street, Mereworth, Maidstone; McAleers, Caesars Way, Folkestone.
3. Mrs Thompson advised that the Council had responded to the recent Environment Agency consultation 'charge proposals for April 2025 and reducing waste crime and updating time and materials charges'. Mr Beaney declared a pecuniary interest in this matter as a waste permit holder.
4. Mr Rayner drew attention to the skills and expertise of the Regulation Committee and officers supporting the Committee and the need to ensure that these were not lost in local government reorganisation discussions.
5. RESOLVED that the enforcement strategies outlined in paragraphs 7 to 100 of the report be noted and endorsed.

KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 10 December 2024.

PRESENT: Miss S J Carey (Chair), Cllr T Bond, Mr P Cole and Mr J M Ozog

IN ATTENDANCE: Ms M McNeir (Public Rights Of Way and Commons Registration Officer), Mr G Rusling (Head of Public Rights of Way & Access), Ms S Bonser (Solicitor) and Ms H Savage (Democratic Services Officer)

UNRESTRICTED ITEMS

1. Membership and substitutes

(Item 1)

Apologies were received from Mr Manion and Mr Baldock. Mr Ozog was present as substitute for Mr Manion.

2. Declarations of interest for items on the agenda

(Item 2)

There were no declarations of interest.

3. Application to register land known as Bunyards Farm at Allington as a new Town or Village Green

(Item 3)

1. The Public Rights of Way and Commons Registration Officer introduced the report and said that the Council had received an application to register land at Bunyards Farm at Allington as a new Town or Village Green from Mr C. Passmore, Mr J Willis, Mr T Wilkinson, Cllr P Harper, Mr T Walker and Mr D Edwards. The application had been made under Section 15 of the Commons Act 2006 which enabled any person to apply to a Commons Registration Authority to register land as a village green where it could be shown that a significant number of inhabitants had indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years.
2. The Public Rights of Way and Commons Registration Officer explained that the Applicants' case was that access had been available from a number of points around the site and set out, as in the report and on the plan attached at Appendix B to the report, the different access points. She said the nature of the application site had varied considerably over the last few decades.

3. The Public Rights of Way and Commons Registration Officer noted that the application site was subject to a separate outline planning application for a residential development which was currently under consideration by Tonbridge and Malling Borough Council and it had no bearing on the outcome of the village green application.
4. The Public Rights of Way and Commons Registration Officer said the site was registered to the Trustees of the Andrew Cheale Will Trust and BDW Trading Ltd had a legal interest in the land in the form of an option to purchase. She explained that an objection to the application had been received during the consultation stage from these parties, as set out in the report.
5. The application was previously considered at a Regulation Committee Member Panel meeting on 15 September 2023 where Members accepted the officer recommendation that the matter be referred to a Public Inquiry. The Public Inquiry took place during March 2024 where an Inspector was appointed by the Council to hear evidence from both sides in relation to the application. The Inspector had prepared a report setting out her findings and recommendation to the Council and this had been circulated to the Landowners and Applicant for their comments. A copy was also circulated to Panel Members for their consideration prior to the meeting.
6. The Public Rights of Way and Commons Registration Officer explained, as set out in the report, the legal tests that must be considered in determining the application, and the outcome of each test based on evidence received and collated, including the Inspector's opinion on each test. She said for the application to be granted every test had to be met in full and if one test failed, the application falls to be rejected.
7. The Public Rights of Way and Commons Registration Officer said the Inspector's view was that the application should fail because the legal tests had not all been met. The application failed to show the use of land was 'as of right' throughout the relevant period and the use of the application land was in the nature of public rights of way use only by the end of the relevant period. The Officers' view was that the parties' evidence and submissions had been carefully examined by the Inspector and the matter had been thoroughly scrutinised. It was considered that the Inspector's Report accurately represented both the evidence and submissions made.
8. The Public Rights of Way and Commons Registration Officer said the Applicants, the landowners, and the objectors were given the opportunity to comment on the Inspector's report but no submissions were received.
9. The Public Rights of Way and Commons Registration Officer recommended, for the reasons set out in the Inspector's Report dated 12 September 2024, that the Applicants be informed that the application to register the land at Bunyards Farm as a new Town or Village Green has not been accepted.

10. Mr Chris Passmore (Applicant) expressed the applicants' disappointment with the recommendations of the Inspector. He said whilst the second reasoning of the Inspector's decision regarding public rights of way could be contested, it was difficult to evidence that Access Point D was accessed on a critical date. Mr Passmore felt the landowner did not look after the land for a long period of time or make a significant effort to deter residents from using it. The residents of Allington felt it was their land to walk on and the local community would lose the land to housing and have to travel further to walk dogs and enjoy nature. Mr Passmore thanked Officers for their work throughout the process.
11. Ms Chay Clark from Birketts LLP (the landowner's solicitor) spoke on behalf of the landowner and respectfully asked the Panel to disregard the Applicant's comments regarding development, and thanked all parties for their time in the matter.
12. Mr Cole expressed his understanding for the Applicants' position but recognised that the four day public inquiry had dealt with the complex issues in detail and was therefore in support of the officer recommendation.
13. Mr Cole proposed, and Mr Ozog seconded, the recommendation in the report that the Applicant be informed that the land known as Bunyards Farm at Allington has not been accepted as a village green, and this was unanimously agreed.
14. RESOLVED that, for the reasons set out in the Inspector's report dated 12 September 2024, that the Applicants be informed that the application to register the land known as Bunyards Farm at Allington as a new Village Green has not been accepted.

4. Application to register land known as Beacon Road in Herne Bay as a new Town or Village Green
(Item 4)

1. The Public Rights of Way and Commons Registration Officer introduced the report and said that the Council had received an application to register land at Beacon Road in Herne Bay as a new Town or Village Green from the Save the Beacon Road Community Land Committee. The application had been made under Section 15 of the Commons Act 2006 which enabled any person to apply to a Commons Registration Authority to register land as a village green where it could be shown that a significant number of inhabitants had indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years.
2. The Public Rights of Way and Commons Registration Officer provided an overview of the land and explained that the Applicants' case was that the land had been used for 100 years as a public open space by the local

community for leisure and recreational purposes as of right during a 20 year period.

3. The Public Rights of Way and Commons Registration Officer said the necessary consultations had been undertaken and evidence from residents in support of the application had been received. District Councillor Mellish wrote in support of the application and Mr Watkins, the Local Member, responded in more neutral terms.
4. The Public Rights of Way and Commons Registration Officer said that ownership of the site was registered to Canterbury City Council and explained the reasons why, as set out in the report, the application was opposed by the City Council.
5. The Public Rights of Way and Commons Registration Officer explained, as set out in the report, the legal tests that must be considered in determining the application, and the outcome of each test based on evidence received and collated. She said for the application to be granted every test had to be met in full and if one test failed, the application falls to be rejected.
6. The Public Rights of Way and Commons Registration Officer said the evidence available indicated that the City Council took steps to secure the site by way of erection of a heras fence across the entrance on 18 December 2020, from which point entry to the application site became contentious. Where use 'as of right' ceases more than one year prior to the making of the application then the application must fail. In support of its objection the City Council provided copies of correspondence with a neighbouring property owner confirming that access to the site was prohibited.
7. The Public Rights of Way and Commons Registration Officer considered, as set out in the report, that the legal tests in this particular case had not been met and recommended that the Applicant be informed that the application to register the land at Beacon Road at Herne Bay as a new Town or Village Green has not been accepted.
8. Panel Members asked the Public Rights of Way and Commons Registration Officer questions for clarification purposes and the following was noted:
 - The buildings on the site were part of the former clubhouse and if village green status was granted the buildings would be entitled to stay but de-registration of the land would be required in order to extend the footprint of the building.
 - The Public Rights of Way and Commons Registration Officer was not aware of any information regarding the erection of the rear garden gates of neighbouring properties or whether there was a formal right of access. If a private easement was contained in the title deeds it would not qualify for the purposes of the village green registration. The number of people with rear garden gates may not be significant

enough, for the purposes of the village green application, to indicate the land was used by the general community.

- The Applicant's case is that the heras fencing was at some point breached, however correspondence from a neighbouring landowner confirmed that for 18 months there was no access to the application site.
9. Mr Trevor Huffey (Applicant) provided a statement and said the land had been used as of right since the late 1800s by the general public for various activities including dog walking which was a daily routine. He said the heras fencing which was erected at the end of 2020 was not secure and there was a gap at the side that the public used. It was assumed the heras fencing was erected to stop cars from parking there. There was no mention of pedestrian access being barred and the land continued to be used as no objections were made. Mr Huffey said he was not aware of any correspondence from the neighbouring landowner and said the people of Beacon Road were part of the locality.
 10. Mr Huffey said no further action was taken by the city council following the heras fencing being erected in 2020 until April 2023 when the city council erected a high palisade fence. Following this the applicants wrote to the city council on several occasions over a period of 10 months but did not receive a detailed response. In April of this year the local councillor spoke to the city council's Head of Property and Regeneration and it was agreed that a meeting regarding future use would be helpful, but regrettably the applicants heard nothing further. The land was made an Asset of Community Value in May 2024. The Canterbury District Local Plan identified the land as open space, however under the proposals for the new local plan the land would be re-categorised as a sports ground.
 11. In respect of the outcome of the village green application Mr Huffey would request that the city council clarify the position regarding the local plan and their intended use of land. Following the recommendation of the officers he said the Applicants believed the next step would be a public inquiry or a judicial review, however the small community group did not have the funds to take it to that stage and therefore would like the land to be granted village green status.
 12. Mr Bond asked about the gap in fencing referred to by the Applicant and the Public Rights of Way and Commons Registration Officer referred to page 33 of the agenda pack which showed pictures of the heras fencing (top), and palisade fencing (bottom) where the fencing went across the boundary. Correspondence from the adjoining landowner on 19 December 2020 and 19 August 2022 states that the city council had blocked access to the land indicating that the fence was at one time secure. The Public Rights of Way and Commons Registration Officer commented that if people were squeezing through a gap then arguably they were not accessing the site openly and freely.

13. Mr Ozog commented that if the village green status was granted it may well interfere with the use of the land by the sports club and the Public Rights of Way and Commons Registration Officer confirmed this was the case.
14. Mr Ozog proposed, and Mr Bond seconded, the recommendation in the report that the Applicant be informed that the land known as Beacon Road in Herne Bay has not been accepted as a village green, and this was unanimously agreed.
15. Mr Cole referred to the gap to the side of the heras fence and said he would interpret that as the site being closed and supported the officer recommendation.
16. RESOLVED that the Applicant be informed that the application to register the land known as Beacon Road in Herne Bay as a Town or Village Green has not been accepted.

5. Application to register land known as Upper Castle Field at Tonbridge as a new Town or Village Green
(Item 5)

1. The Public Rights of Way and Commons Registration Officer introduced the report and said that the Council had received an application to register land at Upper Castle Field at Tonbridge as a new Town or Village Green from Ms J Wyatt. The application had been made under Section 15 of the Commons Act 2006 and the Commons Registration (England) Regulations 2014 which enabled any person to apply to a Commons Registration Authority to register land as a village green where it could be shown that a significant number of inhabitants had indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years.
2. The Public Rights of Way and Commons Registration Officer provided an overview of the land and said the land was owned by Tonbridge and Malling Borough Council, who had not objected to the application, and the necessary consultations had been undertaken. No further objections had been received and the Local Members, Mr Hood and Mr Stepto, supported the application.
3. The Public Rights of Way and Commons Registration Officer explained, as set out in the report, the legal tests that must be considered in determining the application, and the outcome of each test based on evidence received and collated. She said for the application to be granted every test had to be met in full and if one test failed, the application falls to be rejected.
4. The Public Rights of Way and Commons Registration Officer explained that the application plan at Appendix A had been amended to remove car parking spaces and part of a highway known as The Slade and the amended plan to be considered was shown at Appendix D.

5. The Public Rights of Way and Commons Registration Officer said although the application was not opposed it was important all the legal tests had been met. She said she considered that the legal tests had been met and recommended that the Applicant be informed that the application to register the land known as Upper Castle Field at Tonbridge as a new Town or Village Green, subject to the amended plan at Appendix D, has been accepted.
6. The Chairman asked who amended the plan and the Public Rights of Way and Commons Registration Officer explained that Kent County Council was the determining authority and had discretion to register a lesser area. She confirmed the reasons for the amendment had been explained to the Applicant.
7. Ms Jacqui Wyatt (Applicant) explained that there was evidence of personal use going back 78 years and a local history guide had been published with pictures showing how the land had been used during that time.
8. Local Member, Mr Paul Stepto, provided a statement in support of the application and explained that for many years people (including a nearby school) had used the site for recreational activities including family picnics, dog walking and community events.
9. Local Member, Mr Hood, provided a statement in support of the application. He said the Slade was very much a community and thanked officers for amending the plan. He said the raised area of land was often the only dry piece of green space in town and was used regularly by children.
10. Mr Bond proposed, and Mr Ozog seconded, the recommendation in the report that the Applicant be informed that the land known as Upper Castle Field at Tonbridge has been accepted (per the amended plan shown at Appendix D) and that the land subject to the application be formally registered as a Town or Village Green, and this was agreed unanimously.
11. RESOLVED that the Applicant be informed that the application to register the land known as Upper Castle Field at Tonbridge has been accepted (per the amended plan shown at Appendix D) and that the land subject to the application be formally registered as a Town or Village Green.

6. Application to register land known as Burton Down Park at Herne Bay as a new Town or Village Green
(Item 6)

1. The Public Rights of Way and Commons Registration Officer introduced the report and said that the Council had received an application to register an area of land at Burton Down Park at Herne Bay as a new Town or Village Green from Canterbury City Council. The application had been made under Section 15(8) of the Commons Act 2006 which enabled the owner of any

land to apply to voluntarily register land as a new Village Green without having to meet the qualifying criteria.

2. The Public Rights of Way and Commons Registration Officer provided an overview of the land and explained that, in respect of voluntary applications, there was no need for any legal tests to be met and the relevant criteria for the voluntary registration of land as a new Town or Village Green under section 15(8) of the Commons Act 2006 required only that the County Council was satisfied that the land was owned by the applicant.
3. The Public Rights of Way and Commons Registration Officer said the necessary consultations had been carried out and the Local Member, Mr Watkins, supported the application. She said no objections had been received, and the Land Registry search confirmed that Canterbury City Council was the owner of the land.
4. Mr Bond proposed, and Mr Cole seconded, the recommendation in the report that the Applicant be informed that the land known as Burton Down Park has been accepted and the land subject to the application (as shown at Appendix A) be formally registered as a village green, and it was agreed unanimously.
5. RESOLVED that the Applicant be informed that the application to register the land known as Burton Down Park has been accepted and the land subject to the application (as shown at Appendix A) be formally registered as a village green.

7. Application to register land at Marley Fields at Hoath as a new Town or Village Green
(Item 7)

1. The Public Rights of Way and Commons Registration Officer introduced the report and said that the Council had received an application to register an area of land at Marley Fields at Hoath as a new Town or Village Green from Hoath Parish Council. The application had been made under Section 15(8) of the Commons Act 2006 which enabled the owner of any land to apply to voluntarily register land as a new Village Green without having to meet the qualifying criteria.
2. The Public Rights of Way and Commons Registration Officer provided an overview of the land and explained that, in respect of voluntary applications, there was no need for any legal tests to be met and the relevant criteria for the voluntary registration of land as a new Town or Village Green under section 15(8) of the Commons Act 2006 required only that the County Council was satisfied that the land was owned by the applicant.
3. The Public Rights of Way and Commons Registration Officer said the land had been given to Hoath Parish Council by the developer. She said the necessary consultations had been carried out and no objections had been

received, and the Land Registry search confirmed that Hoath Parish Council was the owner of the land.

4. Mr Ozog proposed, and Mr Bond seconded, the recommendation in the report that the Applicant be informed that the land known as Marley Fields at Hoath has been accepted and the land subject to the application (as shown at Appendix A) be formally registered as a village green, and it was agreed unanimously.
5. RESOLVED that the Applicant be informed that the application to register the land known as Marley Fields at Hoath has been accepted and the land subject to the application (as shown at Appendix A) be formally registered as a Town or Village Green.

8. Other items which the Chairman decides are urgent
(Item 8)

There were no urgent items.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the St Lawrence Village Hall, Church Road, Sevenoaks TN15 0LL on Tuesday, 18 March 2025.

PRESENT: Mr S C Manion (Chair), Mr M Baldock, Miss S J Carey and Mr P Cole

IN ATTENDANCE: Ms H Savage (Democratic Services Officer), Mr C Wade (Public Rights of Way Officer), Mr D Munn (PROW Area Manager - West Kent) and Ms M McNeir (Public Rights Of Way and Commons Registration Officer)

UNRESTRICTED ITEMS

1. Declarations of interest for items on the agenda
(Item 2)

In relation to Item 2 - *Application to divert Public Footpath SR161 at the Sevenoaks Preparatory School, Seal* - Mr Cole declared an interest that he was Deputy Leader of Sevenoaks District Council but was able to approach the determination of the application with an open mind.

2. Application to divert Public Footpath SR161 at the Sevenoaks Preparatory School, Seal
(Item 3)

1. The Members of the Panel visited the site of the proposed diversion prior to the meeting. This visit was also attended by Mr Andrew Hodgkin (Bursar, Sevenoaks Preparatory School), Ms Margarethe Batteson (Kent Ramblers), Mr Chris Haslam (Chairman of Seal Parish Council) and Ms Christine Owlett. The Panel Members and interested parties walked the route of the footpath as it currently was and the proposed diversion as shown at Appendix A to familiarise themselves with the route and facts relating to the application.
2. Mr Chris Wade, Public Rights of Way Officer, introduced the report which set out the application the Council had received from Sevenoaks Preparatory School at Park Lane, Godden Green to divert Public Footpath SR161 at Seal.
3. Mr Wade explained that the current route of the path ran across a tennis court on the land owned by Sevenoaks Preparatory School and an informal diversion had been provided by the school. He highlighted that this was an issue that the school and the Council would need to overcome even if the decision was not made to divert the path.

4. Mr Wade explained, as set out in the report, that the first consultation had resulted in the proposal that the new route could be upgraded to bridleway status to provide greater benefit for a larger section of the public. However, the costs this would involve had led to this proposal being abandoned and a reversion to the original proposed diversion at footpath status.
5. Mr Wade explained that the Council must be satisfied that it is expedient to divert a legally recorded public right of way on the grounds set out within the Highways Act 1980 and confirmed he was satisfied that it was expedient in the interests of the owner of the land to divert the path. Mr Wade set out the considerations that the Council must consider (paragraph 11 b. i-iv of the report) are satisfied before promoting a Public Path Change Order and confirmed that all the criteria in relation to these had been complied with.
6. Mr Wade referred to paragraphs 13–25 of the report and said that consultations had been carried out as required. He summarised the comments that had been received and the outstanding objections.
7. Mr Wade explained that two substantive issues had been raised (paragraph 19 of the report) which included that the path had been there long before a purchaser bought the land, and that the path was obstructed and was therefore not in compliance with paragraph 2(4) of the Council's General Notes on requests for Diversion or Extinguishment of a Public Right of Way. Mr Wade referred to paragraph 20 of the report and explained that the Council must balance the interests of the owner against those of the public and whilst the owner may have been aware of the existence of the footpath it did not preclude an Order being made by the Council. Mr Wade referred to the Council's General Notes to accompany a Public Path Order application where the discretion available to the Council was clearly and deliberately set out following advice from Counsel. The paragraph states, "However, nothing in this policy is intended to prevent the County Council promoting a Public Path Change Order in any case where it considers it appropriate in all the circumstances to do so".
8. Referring to paragraphs 26-37 of the report Mr Wade summarised the criteria that must be considered, when dealing with an application to divert a public right of way, under Section 119 of the Highways Act 1980. He confirmed that he considered that the main categories for diverting the path had been met. In addition to the tests set out in section 119 of the Highways Act 1980, the Council must also have regard to the issues set out in paragraph 38 of the report when considering an application to divert a public right of way. Mr Wade notified the Panel of a typographical error in the report at paragraph 38 (c) which should read "In this case the land does not form part of a National Landscape".
9. Mr Wade said it was the Officers' view that the legal tests had been met in all respects and it appeared expedient that an Order should be made in the interests of the landowner without impacting on the enjoyment or convenience of the public whilst noting that there was local opposition to the application. Mr Wade recommended that the Council makes a Public Path

Diversion Order to divert Public Footpath SR161 Seal; and in the event of objections to the Order, the matter be referred to the Planning Inspectorate.

10. The Chair invited questions of clarification from the Panel to Officers.
11. Mr Cole referred to paragraph 33 of the report and asked how the Weston case related to the application, as well as the Wednesbury Principle, and Mr Wade explained that, as in the Weston case, there was low landowner interest and therefore it was necessary to consider the enjoyment of the public. In relation to the Wednesbury principle Mr Wade said the Council had made considerable efforts to consult with members of the public and key stakeholders and had sought Counsel's opinion.
12. Mr Cole asked for clarification regarding the definition of 'public' and Mr Wade explained that anyone invited onto the land by Sevenoaks Preparatory School was there by right, and members of the public using the footpath were there by right. He stressed the importance of considering all the issues that relate to the general public as a whole.
13. Miss Carey asked about the slight gradient of the proposed path and Mr David Munn explained the importance of considering the current users of the path and said it was not possible to specify that a certain gradient was not acceptable. Mr Wade confirmed that the Officers' professional opinion was that anyone using the current path now would be able to use the proposed path although it would be slightly less convenient to do so, and this was allowed under legislation.
14. Mr Baldock asked whether it needed to be expedient in the interests of both the landowner and the public and Mr Wade explained it could be in the interests of one or both. There would need to be grounds for the landowner if it was not in the interests of the public.
15. Mr Baldock questioned whether the proposed route would be suitable for use by those with a disability and Mr Wade explained that the current route across a playing field would be difficult to use by those in a wheelchair as it was not maintained. If the route became a highway it would be maintained and a surface would be put down. Mr Munn explained there was not a definitive answer and a judgment in this regard was made from evidence received from interested parties.
16. Mr Baldock referred to the proposed diversion and its use by horse riders. Mr Wade said the British Horse Society had been consulted and notices had been posted for members of the public to see. He explained that it was the pedestrian rights that were being diverted and it was possible horses would use the route however they would not be exercising a public right. Mr Wade referred to a Section 31(6) of the 1980 Highway Act deposit and said this ran to 2033 (it was renewed every 20 years) and explained that landowners could give permission to horse riders and cyclists to use a PROW on their land.

17. The Applicant, Mr Andrew Hodgkin on behalf of Sevenoaks Preparatory School, addressed the Panel. He explained that the principal reason for the application was to protect the school children and promote safeguarding. He said there were extensive regulations in place to ensure the school children were protected and any person who came onto the school site was required under Department of Education rules to sign in and be accompanied by a member of staff at all times. However, in the case of the footpath the school was not able to take those measures and at times several people could be walking across the school playing field as children were outside playing. He said a detour was needed which he believed provided a more natural perspective and minimised the risk of pedestrians walking across the field and being hit by stray balls. He said it would be negligent of the school and the Council not to address the safeguarding issue until there was any evidence that it was necessary to do so, and the school had a duty to protect its children who were not able to protect themselves.
18. Ms Margarethe Batteson from Kent Ramblers had sent a written representation (as below) in objection to the application which was circulated to the Panel prior to the meeting:

“Submission dated 14 March 2025 on behalf of Kent Ramblers in response to the Report by the Head of PROW and Access to Kent County Council’s Regulation Committee Member Panel on 18 March 2025 (the “Report”).

We wish to make the following observations/comments on the Report. References to paragraph numbers and definitions reflect those set out in the Report.

Introduction

1. *Noted.*
2. *The current route is blocked by the tennis court which is a fenced structure. Given the physical presence of the tennis court, the only current option is to walk around it, so reference to an “informal route” having been provided by the School is somewhat disingenuous. On one occasion last year, the author of this submission, hesitating while trying to ascertain where the path runs over the School grounds in the absence of any signs or markings, was instructed by a member of the School’s staff that the correct route of the path was to walk north along the edge of the car park.*
3. *Noted.*

Background

4. *No comment.*
5. *We comment on these grounds later in this submission.*
6. *It appears that the School is unable to make the case for requiring diversion under S119 (B) of the Highways Act 1980 (to protect pupils and staff from violence or the threat of violence; or harassment; or alarm or distress arising from unlawful activity; or any other risk to health or safety arising from such activity) and is instead relying on the catch-all list set out in paragraph 5 of the Report. The School admits that its pupils are fully supervised at all times when on site (see paragraphs 6 and 28 of the Report). This suggests that the*

safeguarding concerns listed at paragraph 5 of the Report are hypothetical rather than real.

7. *The site security guidance issued by the Department of Education (updated 12 July 2024) recommends that a school's boundary should be protected with a secure fence of railings such as Weldmesh fencing to BS1722 or expanded metal railings over 2.0m high. There is nothing to prevent the installation of Weldmesh fencing which would retain the open aspect that the School indicates it wishes to maintain. Suitable signage would also alleviate the School's concerns about walkers "ending up in the wrong part of the School" (See paragraph 5 of the Report).*
8. *See paragraph 1 above.*
9. *The route of the proposed diversion is currently used not only by equestrians from nearby riding stables, but also by walkers. No mention is made of how it is intended to exclude equestrians if the diversion is only to have footpath status. This is of great concern given the current state of the track (making it difficult for walkers) and its condition in the future if there is continued use as an informal bridleway. Will horse riders be excluded and, if so, how? Have they been consulted?*
10. *No comment.*

Policy

11. *No comment.*

Legal Tests

12. *No comment.*

Consultation

13. *Noted.*
14. *Noted.*
15. *Noted.*
16. *Noted.*
17. *Noted.*
18. *Noted.*
19. *Noted.*

Comments on the objections

20. *No comment.*
21. *We would wish to understand how that discretion is exercised by the Council in the light of the Wednesbury principles.*
22. *We strongly disagree that the guidelines of paragraph 12 (iv) have been met.*
23. *No evidence has been provided that walkers using SR161 have actually caused any issues to the School. The clear implication from this paragraph is that the diversion is purely for the School's convenience (e.g. "it would be totally inconvenient for the school to fence the path across the field"). The School do not seem to be prepared to consider any form of compromise such as moving the path to the side of the playing field to the north of the current route of SR161. We have previously offered to meet with the School to discuss a possible compromise but this offer has not been taken up.*
24. *We note the proposal for an improved highway verge. What form will this take? Future maintenance is of concern.*

25. *We strongly refute the suggestion that a reasonable person would consider the proposed route “pleasant”; in fact, quite the opposite is the case: the track is muddy and rough under foot, makes for difficult walking even in dry weather and is churned up by horse riders. The foliage bordering the path makes it dark and oppressive, even in sunny weather. Contrast the sunny open aspect of SR161 as currently constituted. The fact that walkers may be currently deterred from using the legal route of SR161 where it crosses the playing field (especially if a game is in progress) could quickly and easily be rectified by the erection of adequate signage.*

The Case

26. *No comment.*
27. *No comment.*
28. *See our comments in paragraphs 6, 7 and 23 above and 40 below. Any fencing can be Weldmesh which would preserve the open aspect.*
29. *No comment.*
30. *Noted.*
31. *Noted.*
32. *Noted.*
33. *Noted.*
34. *If it is intended that the new route be pedestrian only, how will horse riders be excluded? Have they been consulted?*
35. *We repeat paragraph 25 above.*
36. *No comment.*
37. *No comment.*

Further considerations

38. *No comment.*
39. *No comment.*
40. *We would refer to the doctrine of “ex turpi causa” in respect of the School’s conduct. It is a fundamental tenet of the common law that a party should not profit from its own wrongdoing. The School purchased the site in full knowledge of the existence of SR161. The School chose to construct games’ pitches across the line of the route of SR161. Furthermore, it appears that it knowingly obstructed part of SR161 by constructing a tennis court over it in or around 2012. Moreover, apart from one “footpath” sign near the road access to the School car park and a sign at the corner of the tennis court directing people around the court, the School has neglected to erect any signage or markings to indicate the correct (or even any) route of the path over its grounds at the Park Lane end of the route. In paragraph 5 of the Report, the School expresses concern at members of the public potentially being injured by “flying balls” during School sports activities when using SR161. The School has chosen to introduce the risk of those flying balls by allowing sports activities to take place on a right of way. If it were to erect a secure fence such as Weldmesh fencing to BS1722 2.0m high, that risk would be minimised.*
41. *No comment.*
42. *We reiterate our objection to the proposed Order for the reasons given above.”*

19. Ms Christine Owlett addressed the Panel and said she was in favour of the proposal. Ms Owlett said she had lived in the parish for 42 years and could not recall a time that she had ever walked across Sevenoaks Preparatory School and had always taken the proposed diversion route.
20. Councillor Chris Haslam (Chairman of Seal Parish Council) addressed the Panel. Mr Haslam said that Seal Parish Council recognised the need to divert the current footpath and was interested to see what the alternative route would be and how it would be maintained. Mr Haslam said the Parish Council supported a submission to upgrade the route to a bridleway. He referred to the gradient of the current path in contrast with the proposed route and said consideration should be given to the condition of surrounding paths. Mr Haslam expressed his support for an alternative safer and shorter route along Park Lane.
21. The Chair invited comments from the Panel.
22. Mr Baldock said there was clear evidence that the footpath was used by members of the public and the path was in place before the land was bought by the school who were now applying for it to be diverted. Mr Baldock expressed his disappointment as to how the application had been made and said the current route was open and flat and safer than the proposed route through woodland. He said the diversion was not like for like and much longer than the current footpath and inconvenient for those with disabilities. He said barriers to the proposed route might mean less people would use it and it would be more appealing if it was flat and open. He said the diversion was substantially less convenient, longer and less safe. Mr Baldock expressed his concern regarding the amount of consultation with equestrian users and potential problems for them using the proposed diversion.
23. Miss Carey thanked officers for the report and clear explanation, and to everyone who came along to the site visit. Miss Carey referred to a viable alteration to the route suggested by officers that would shorten the route along Park Lane. Mindful of this and comments made by the Chairman of Seal Parish Council, Miss Carey proposed, and Mr Cole seconded, an amendment to the recommendation in the report as follows:
 - (a) The County Council makes a Public Path Diversion Order under Section 119 of the Highways Act 1980 to divert Public Footpath SR161 at Seal as shown at Appendix A; and
 - (b) a path at points G to E, as shown on the attached amended plan, be added to the diversion route to replace the proposed path at points E to F; and
 - (c) in the event of objections to the Order, the matter be referred to the Planning Inspectorate for resolution.

Amendment carried.
24. Mr Munn clarified that the precise location of point G would be identified once a GPS survey had been completed.

25. Mr Cole said it was important to consider the public as well as the safety of the children at Sevenoaks Preparatory School and under those circumstances was minded to support the diversion.
26. The Chair put the amended recommendation set out in paragraph 23 and it was agreed by majority vote.
27. RESOLVED that:
 - (a) The County Council makes a Public Path Diversion Order under Section 119 of the Highways Act 1980 to divert Public Footpath SR161 at Seal as shown at Appendix A; and
 - (b) a path at points G to E, as shown on the attached amended plan, be added to the diversion route to replace the proposed path at points E to F; and
 - (c) in the event of objections to the Order, the matter be referred to the Planning Inspectorate for resolution.

3. Other items which the Chairman decides are urgent
(Item 4)

There were no urgent items.

4. Motion to exclude the press and public for exempt business
(Item 5)

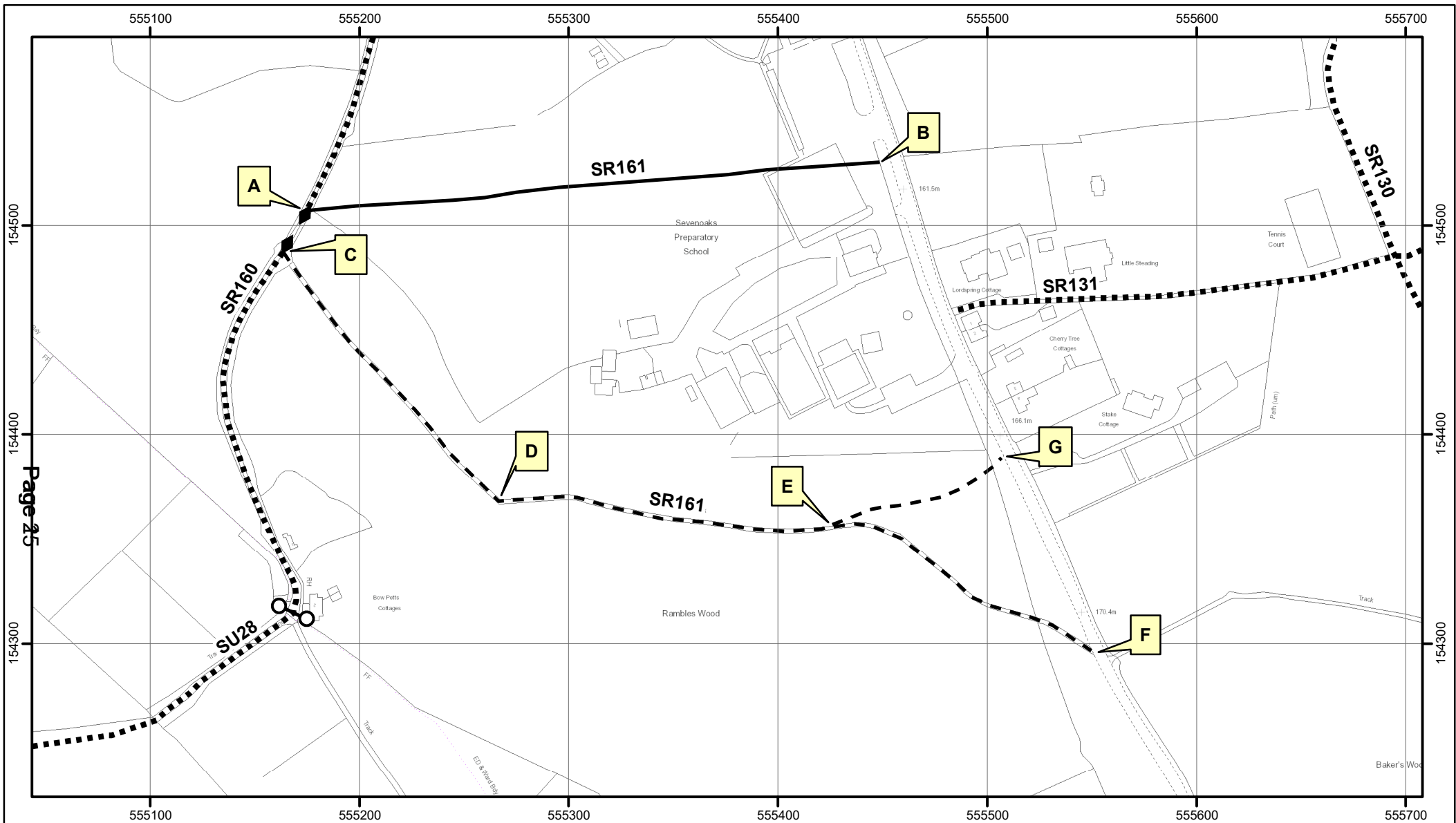
Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1 of Schedule 12A of the Act.

5. Transfer of Rights of Common at Higham Common (CL86)
(Item 6)

1. The Public Rights of Way and Commons Registration Officer introduced the report and explained that the Council had received two applications to amend the Register of Common Land in respect of rights of common at Higham Common. The first application sought to amend the Register to reflect a transfer of ownership of rights of common and the second application had been made under section 12 of the Commons Act 2006 in respect of the sale of those rights of common. The need for two separate applications (under different parts of the legislation) had arisen because the current registered owners of the rights of common were deceased and it was therefore necessary to update the Register (to record the beneficiaries of their estates), before those rights could formally be transferred to the purchaser.

2. The Public Rights of Way and Commons Registration Officer explained that Schedule 3 of the Commons Act 2006 enabled applications to be made to reflect 'historic events' that had taken place prior to 1st October 2008 and Section 12 of the Commons Act 2006 enabled the transfer of ownership of any rights of common (after 1st October 2008) to be recorded in the Register of Common Land. Notices of the applications were published on the Council's website and served on all owners of the rights of common listed in the Register for Higham Common and no objections were received.
3. In determining an application under Schedule 3, the County Council must be satisfied either that the application has been made by the registered owner or that the person making the application has the capacity to apply. In this case, the applicant had provided evidence of the capacity to apply.
4. The Council must also consider a fairness test set out in Regulation 42(5) of the 2014 Regulations, which states that: 'the determining authority may not determine that a register entry should be amended if it considers that, by reason of reliance reasonably placed on the register by a person since 1st October 2011, it would be unfair to do so'. In this case, since this application related simply to an administrative update to the legal record, it was not considered that there were any issues relating to fairness.
5. In respect of applications under section 12 of the Commons Act 2006, the Council must be satisfied that the person making the application had the capacity to apply. The applicant in this case was the transferee and, as such, the applicant was able to make the application to amend the register under the Commons Act 2006.
6. The Council must also be satisfied that the current owners of the rights of common consent to the application. In this case, current owners had all confirmed their agreement to the transfer and all signed the formal Deed of Transfer.
7. Following a question from Mr Cole The Public Rights of Way and Commons Registration Officer explained that the ownership of land was separate to the right to graze animals and the ownership section of the Register was now obsolete as there was no legal requirement for it to be kept up to date (the Land Registry now being the official source of land ownership information).
8. The Chair put the motion set out in the report and it was agreed unanimously.
9. RESOLVED that the County Council accepts the two applications (CAA26 and CAA27) to amend the Register of Common Land (to reflect the transfer of rights of common at Higham Common), and that the Register of Common Land for unit number CL86 be amended accordingly.

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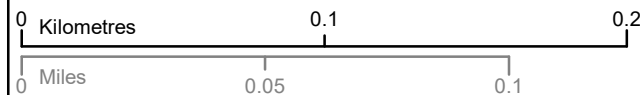


Key

- Route to be diverted
- New length of route
- Unaffected Routes
- Existing path used as part of diversion

Highways Act 1980
Wildlife and Countryside Act 1981
The Kent County Council
(Public Footpath SR161, Seal)
Public Path Diversion and Definitive Map and
Statement Modification Order 2025

Public Rights of Way and Access Service



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REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 15 January 2025.

PRESENT: Mr S C Manion (Chairman), Mr A Brady, Mrs P T Cole, Ms J Hawkins, Mr A Kennedy, Ms J Meade, Mr J Meade, Ms L Parfitt, Mr R G Streatfeild, MBE and Ms L Wright

IN ATTENDANCE: Ms H Savage (Democratic Services Officer) and Ms J Grant (Assistant Director, West Kent Adult Social Care)

UNRESTRICTED ITEMS

1. Apologies and Substitutes (Item 1)

Apologies were received from Mr Collor, Mrs Game and Mr Ridgers.

2. Declarations of Interest by Members for items on the agenda (Item 2)

There were no declarations of interest.

3. Minutes of the meeting held on 18 January 2024 (Item 3)

RESOLVED that the minutes of the meeting held on 18 January 2024 are correctly recorded and that they be signed by the Chairman.

4. The Local Authority's Guardianship Register (Item 4)

- 1) The Assistant Director (West Kent Adult Social Care) introduced the report on the work of the Guardianship Quality and Scrutiny Panel during the period January 2024 to December 2024 and the current Guardianship Register.
- 2) The Assistant Director (West Kent Adult Social Care) explained the work of the Guardianship Quality and Scrutiny Panel and said throughout 2024 KCC's Guardianship Register consisted of two individuals. One had been subject to the renewal process and one had been discharged.
- 3) The Sub-committee thanked officers involved for their work.
- 4) RESOLVED that the Regulation Committee Mental Health Guardianship Sub-Committee notes the contents of the report including the current Guardianship Register at Appendix A.

5. Other items which the Chairman decides are Urgent
(Item 5)

There were no urgent items.

Update from the Public Rights of Way & Access Service

A report by the Head of Public Rights of Way and Access to Kent County Council's Regulation Committee on Thursday 16 October 2025.

Recommendation:

I recommend that Members consider this report and note its content.

Progress with Definitive Map & Statement applications

1. A report is presented to the Regulation Committee, at the Autumn meeting each year, providing Members with a summary of the current position in respect of applications to amend the Definitive Map and Statement (DMS).

Section 53 Applications

2. Any person may make an application to the County Council, as the Surveying Authority, under section 53 of the Wildlife & Countryside Act 1981, to amend the DMS to add, upgrade, downgrade, or delete a public right of way. The County Council has a duty to investigate every correctly made application it receives.

2.1. Investigation involves undertaking interviews with witnesses and landowners, documentary research and consultation, amongst other things. It is our policy to deal with these applications in order of receipt except where:

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

In such instances a case may be accelerated.

2.2. During the period April 2024 to March 2025, 22 applications were determined, 19 Orders were made and 10 were confirmed. 22 cases are currently under investigation with a further 8 having recently been allocated. To date there are 116 unallocated applications (as of 23 September 2025). The number of applications received fluctuates with 37 applications being received in 2020, 19 in 2021, 27 in 2022, 7 in 2023, 39 in 2024 and 40 received in 2025 to date. The next application to be allocated was received in April 2021 indicating a backlog of close to 4.5 years. However, when considering that on average, 12-14 applications are determined each year, the reality is that the current backlog is nearer to 8.5 years.

2.3. There are currently 12 cases with the Planning Inspectorate, 11 of which are awaiting determination as objections were received to the made Order. One is to be determined following an appeal against the decision of the County Council to decline to make an Order.

2.4. The Schedule of Applications is updated on a regular basis and can be found on the County Council's website at:

[Correct the rights of way map - Kent County Council](#)

2.5. The backlog in applications and the disparity between the number of applications being received when compared with the number being determined nationally was the

subject of a BBC report in August 2024 and whilst it is from last year, it is still relevant and useful to read and I therefore attach a link for information : [Public rights of way applications backlog concerns campaigners - BBC News](#)

Applications to divert, extinguish or create public rights of way

3. As part of its rights of way functions, the County Council also processes applications from landowners to divert or extinguish public rights of way using powers available to it under the Highways Act 1980. Public rights of way can be diverted for a range of reasons provided that it is 'expedient' (or necessary) to do so and that the proposed diversion is not substantially less convenient, or less enjoyable, for users. The test for extinguishing (stopping up) a right of way is considerably narrower, and it is only possible to do this in cases where the right of way is 'unnecessary' or 'not needed for public use'.

3.1. During the period April 2024 to March 2025, 20 Public Path Orders have been confirmed. There are 24 unallocated diversions/extinguishments resulting in a backlog of approximately 18 months to 2 years between the receipt of an application and allocation to an officer.

3.2. There are 2 Orders with the Planning Inspectorate awaiting determination as objections were received to the made Order.

3.3. The County Council also deals with applications made under the Town & Country Planning Act 1990 to close or divert public rights of way that are affected by development. This work is undertaken on behalf of Ashford, Canterbury, Dartford, Dover, Gravesham, Folkestone and Hythe, Sevenoaks, Swale, Tonbridge & Malling & Tunbridge Wells Councils and the Ebbsfleet Development Corporation. A small number of applications are also processed in respect of our own planning functions. During the period April 2024 to March 2025, 10 Public Path Orders have been confirmed/certified. There are 23 cases where Orders have been made and confirmed and are awaiting certification following the completion of the works on site.

3.4. There is 1 Town and Country Planning Act 1990 Order with the Planning Inspectorate awaiting determination.

3.5. The Schedule of Applications, which is updated on a regular basis, can be located on the County Council's website at:
[Change rights of way - Kent County Council](#)

Statutory Deposits under section 31(6) of the Highways Act 1980 and/or section 15A(1) of the Commons Act 2006

4. This is a means by which landowners can protect their land against further public rights of way or a village green from being established as a result of future unchallenged, as of right, public use.

4.1. During the period April 2024 to March 2025, 19 Deposits have been received, a decrease of 18 from the previous year.

Land Searches and Temporary Traffic Regulation Orders

5. The Definitive Map Team also provide local authority search responses in respect of public rights of way and common land and village greens. The Team processes the Temporary Traffic Regulation Orders required by the Public Rights of Way and Access Service when undertaking maintenance work, or to ensure public safety. Orders are also made to facilitate work by statutory undertakers, landowners and developers. The full cost of providing these services is recovered from the applicant. Given that much of this activity is tied to the state of the housing market and the level of development, it does fluctuate and may impact on the capacity of the team to progress Public Path and Definitive Map Modification Order applications.

Backlogs

6. I have referred to the application backlogs above at paragraphs 2.2 and 3.1. The backlogs for applications to both divert/extinguish public rights of way and to amend the DMS reflect the complex and lengthy procedures to be followed. There is a strong correlation between the number of applications determined and the number of experienced officers available to undertake the work. Additionally, there is no ability to limit the number of applications to amend the DMS that are received in any year. It is interesting to note that whilst the backlog for applications to amend the DMS has increased, the backlog for applications to divert/extinguish has decreased and is expected to decrease further. This is mainly due to a reduction in applications received, with only 9 applications to divert or extinguish public rights of way having been received so far this year.

6.1 As I have stated above, we have 15 Orders currently with the Planning Inspectorate. The Planning Inspectorate considers appeals against decisions not to make definitive map and statement modification orders and determines Orders to which objections or representations have been received. The Inspectorate has a backlog of Orders to be determined. The backlog currently stands at approximately 9 months from the submission of an Order to it being reviewed by a case officer. Determination and the issuing of a decision may take many more months. Their backlogs directly impact on our work.

Legislative Update

7. In previous reports I have covered the Deregulation Act 2015 and the 2026 cut-off-date and the implications this will have on our Service. However, I thought it would be helpful to provide new Members with a recap.

7.1 The Deregulation Act was enacted on 27 March 2015, however, a package of reforms in relation to public rights of way have still to be implemented as the associated regulations and guidance are still to be laid or published. Progress to implement the reforms has been sporadic and frequently delayed. Currently no statutory instrument has been identified through which the provisions could be implemented. Government did, however, indicate in December 2024 its desire to continue with the package of reforms.

7.2. In 2000 the Countryside and Rights of Way Act introduced a deadline, known as the 'cut-off date', for the recording of public rights of way on the basis of historic evidence. After this date – originally specified as 1st January 2026 – it would no longer be possible to record public rights of way on the basis of historic evidence and

those rights would effectively be lost. The purpose of this provision 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, although applications made on the basis of user evidence (over a period of at least twenty years) could continue to be made.

7.3. Over recent years, there has been much debate as to the merits, or otherwise, of the 'cut-off date', and many changes in policy, with the Government announcing (in early 2022) its intention to repeal the date altogether, before subsequently determining (in October 2023) to reinstate and extend it to 1 January 2031.

7.4. On 26 December 2024, the Government announced that the latest 'cut-off date' (set for 2031) would be repealed when parliamentary time allows. In practical terms, this means that it will continue to be possible to submit applications to record public rights purely on the basis of historic, documentary, evidence. It is hoped that the repeal will result in a reduction in the rate at which applications are being submitted and, in the longer term, the total number of applications made. Although, due to the uncertainty with this legislation and until the cut-off-date has officially been repealed, stakeholders are continuing with their research and submitting applications.

7.5. During the past 5 years the County Council has seen a large increase in the number of Section 53 applications which has substantially increased the backlog. Out of the 116 applications awaiting allocation to an Officer, 89 are based upon pre-1949 historical evidence with only 27 being based upon user evidence. This reflects a significant change in the basis on which applications had been made with the majority previously having relied on user evidence.

Recommendation

8. I RECOMMEND Members consider this report and note its content.

Contact Officer:

Graham Rusling – Head of Public Rights of Way and Access
Tel: 03000 41 34 49 - Email: graham.rusling@kent.gov.uk
Public Rights of Way & Access Service

From: Head of Planning Applications Group

To: Regulation Committee - 16 October 2025

Subject: Update on Planning Enforcement Cases

Classification: Unrestricted Report with Exempt Appendices 1 and 2 not for publication (under Paragraphs 5, 6a and 6b of Part 1, Schedule 12(a) of the Local Government Act 1972)

Recommendation:

Regulation Committee is asked to note the report and endorse the enforcement strategies outlined in Appendices 1 and 2.

Introduction

1. The planning enforcement work of the Planning Applications Group falls within the remit of the Regulation Committee. This relates to breaches of planning control at sites that have the benefit of planning permission as well as unauthorised development at sites that have no planning permission.
2. Member training took place on 7th October 2025, highlighting in particular, the complementary roles of policy direction and authorisations through Members, and triaging, prioritising of cases, operational detail and formal planning enforcement procedures, through officers.
3. The detail of all planning enforcement matters is considered in camera. The reasons are to protect case strategies, court evidence and the health & safety of Members, officers and the public.

Format

4. This report gives in short-form, the current and active workload of the Group in the planning enforcement field, since 20th January 2025 Regulation Committee. It is drawn from minerals, waste management and County Council's own developments. The cases are divided into unauthorised sites and compliance work within sites granted planning permission by the County Council. The respective lists are further sub-divided in *italics* by local authority areas.
5. The appendices to this report are exempt. Succinct information is given on each case within the alleged unauthorised and permitted areas and cover key points. The sites in the unauthorised area of this report are presented as **Appendix 1** and the permitted cases are covered under **Appendix 2**. Local Authority areas further sub-divide the respective content.
6. The format has been devised to give a brief and clear presentation of the cases.

Cases

7. The reported cases are at the forefront of our current planning enforcement workload. Other cases are at an earlier stage of investigation. They require further research, analysis and enforcement strategies to be developed, before bringing them to this Committee. That includes joint working with our regulatory partners. The weight of expectation is always high in dealing with cases but it is equally important to be sure on remit and jurisdiction, an often complex matter, but critical in determining what and whether action can be taken and to factor in the available level of resourcing.

8. The alleged 'unauthorised site' list is as follows:

Canterbury City Council

01 **The Pines Nursery**, Gravel Castle Road, Barham

Dover District Council

02 **Eight Acres**, West Hougham

03 **Pike Road / Thornton Kennels**, Tilmanstone

Gravesham Borough Council

04 **LRT Metal Recycling**, Gravesend

Maidstone Borough Council

05 **Knole Farm**, Malling Road, Teston, Maidstone

Swale Borough Council

06 **Woodger's Wharf (Aerial site)**, Horsham Lane, Upchurch.

Tonbridge & Malling Borough Council

07 **Manor Farm, Willow Lane**, Paddock Wood

9. In addition to the above cases, the County Council is working jointly with other regulatory bodies on a number of other major cases, which are allegedly linked to strategic waste crime.

10. Alleged compliance issues at permitted sites includes:

Ashford Borough Council

01 **Ashford Wastewater Treatment Works**, Canterbury Road, Ashford.

02 **Smarden Waste Water Treat Works**, Smarden, Ashford.

Canterbury City Council

- 03 **Shelford Landfill**, Broad Oak Road, Canterbury

Dover District Council

- 04 **The Old Tilmanstone Colliery**, Pike Road, Eythorne.

Folkestone & Hythe Borough Council

- 05 **McAleers, Plot 1**, Caesars Way, Folkestone

Gravesham Borough Council

- 06 **RS Skips**, Apex Business Park, Shorne.

Swale Borough Council

- 07 **Otterpool Quarry**, Ashford Road, Sellinge.

Tonbridge & Malling Borough Council

- 08 **Borough Green Sandpits**, Platt, Borough Green

Tonbridge & Malling Borough Council

- 09 **H&H Celcon**, Ightham.

11. Monitoring visits assist both in the 'unauthorised' and 'permitted' areas of work by off-setting any emerging problems and through checking existing compliance. There is a prescribed chargeable element too in some cases.

Conclusion

12. Whilst the details of cases have to be safeguarded, in general, the planning enforcement workload remains high, from small to medium size cases, up to the strategic level. The common work pattern at most levels in the unauthorised field is now on a shared and collaborative basis with our regulatory partners. Costs, expertise and resources are able to be shared in this way, with the further benefit of a united front on site, an holistic approach and integrated working.

Recommendation

13. Regulation Committee is asked to note the report and endorse the enforcement strategies outlined in Appendices 1 and 2.

Case Officers: KCC Planning Enforcement

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