

Planning Inspectorate Procedures for Legal Orders

Guidance Notes

Any representations or objections made (and not withdrawn) to a Legal Order published by the County Council must be forwarded to the Secretary of State for the Environment Food and Rural Affairs (DEFRA) for confirmation through the Planning Inspectorate based in Bristol.

Once the order and objections are submitted to the Secretary of State the power to determine the order passes to him. He will appoint an Independent Inspector to deal with the order by:-

- holding a Public Inquiry
- arranging a hearing
- written representations.

The written representations procedure is usually adopted where there are very few objectors to an order who all agree to this procedure whereby each party is invited to comment on the other's case and an Inspector makes an unaccompanied site visit before a decision is made. Hearings are less formal than Public inquiries. The Planning Inspectorate has a code of practice for hearings which is sent to objectors who are offered the option of a hearing. However, a Public Inquiry is the most common way of determining an order where there are a number of objections. Public Inquiry procedures are outlined in more detail below.

Before the Inquiry:-

- The date and location of a Public Inquiry is decided by the Planning Inspectorate in consultation with the order making authority (the County Council). Inquiries are usually held in local village halls. The venue should be conveniently located for the majority of those wishing to attend.
- Details of the Inquiry are advertised in the local press and notices placed on site and forwarded to landowners, objectors and interested parties.
- The County Council supply a statement of their case to the Inspector and objectors to enable everyone to get a better idea of the issue(s) before the Inquiry begins. Other parties to an Inquiry should also supply such statements to the Inspector and to the County Council.
- The Inspector will make an unaccompanied visit to the site(s) detailed in the order.

At the Inquiry:-

The Inspector will make an independent assessment of the merits of the order in question. At the start of the Inquiry the Inspector will ask for the names of those people at the Inquiry who wish to speak for or against the order proposals. It is his job to:

- conduct the proceedings at the Inquiry
- ensure that all those who wish to be heard at the Inquiry heard
- make an accompanied site visit with relevant parties

The usual 'running order' at an Inquiry is for the order making authority (the County Council) to state its case first. Objectors may cross-examine any witness called to give evidence. Then any supporters of the order are heard and may also be cross-examined by objectors. The case for the objectors is presented next and this is also open to cross-examination. Finally, closing statements are made with the order making authority making the last statement. The Inspector then closes the Inquiry and arranges the site accompanied visit. The site visit is to allow parties to point out relevant physical features along the route. No new evidence may be considered that has not been raised during the Inquiry.

After the Inquiry:-

Some time after the close of the Inquiry the Inspector will issue a decision letter to the County Council, all objectors and those attending the Inquiry who have requested a copy. He may decide:-

- to confirm the order
- not confirm the order
- modify the order proposals

If the order is confirmed, the County Council will publish final notices of confirmation and serve notice on all those who were served notice when the order was made. If the order is not confirmed, the County Council will forward a copy of the Inspector's decision letter to all those served notice of the making of the order. Should the decision be to modify the order proposals, the Planning Inspectorate will re-advertise the modified proposals. There is an opportunity at this stage to make objections to the proposed modifications which may lead to a second Public Inquiry to determine the outcome of the modified order.

Following the publication of the final notice of confirmation, there is a final opportunity to appeal against the validity of the order to the High Court on the grounds that the Inspector's decision was not within the powers of the Wildlife and Countryside Act 1981.

Please note that there is a power for the Inspector to make an award of costs in favour of, or against, any party to a Public Inquiry.

For further information telephone 01743 255068