



REPRESENTATIONS AND OBJECTIONS: PROCESSING BY THE PLANNING INSPECTORATE

1. The purpose of this Advice Note is to explain how the Planning Inspectorate deals with objections and representations to definitive map modification and public path orders.
2. This Advice Note is publicly available but has no legal force.

A. Under Schedule 15 to the Wildlife and Countryside Act 1981

3. Jurisdiction for the confirmation of orders transfers from the order-making authority to the Secretary of State¹ in either of two situations: either (a) where there are no (un-withdrawn) duly made objections but the order-making authority seeks a modification of the order (in which case paragraph (6)(1)(b) of Schedule 15 applies), or (b) where there is at least one un-withdrawn duly made objection (in which case paragraph 7 of the Schedule applies).
4. In the case of the former, the unopposed order will be processed by the Planning Inspectorate on the basis of the papers provided and there will be no further exchanges of evidence nor a site visit (except in exceptional circumstances) unless the modifications requested by the authority (or proposed by the Inspector) are of a type described in paragraph 8(1) of the Schedule and require further advertisement (as provided by paragraph 8).
5. Where the order is opposed, paragraph 7 of Schedule 15 sets out the procedures to be followed. These procedures are wholly dependent on the premise that at least one objection is duly made (otherwise the authority would be in a position to confirm the order without referral to the Secretary of State).
6. When first submitted to the order-making authority, it is not necessary or appropriate² for them to determine whether or not the representation or objection raises matters which are **relevant** to the substance of the order, but it is for the authority to establish whether or not it is **duly made** so as to decide how to proceed.
7. A "duly made" objection (or representation) is one made in relation to the order (a) within the time period specified in the statutory notice, (b) in the manner specified, for example, *in writing (or by email) to the Chief Legal Officer of the Council*, and (c) includes details of the grounds on which it is made.

¹ Or, in Wales, to the Welsh Ministers

² A principle established in the case of *Lasham Parish Meeting v Hampshire CC* [1992] 65 P & CR 344; [1993] JPL 831; [1993] COD 45

8. Following amendments introduced by Schedule 5 to the Countryside and Rights of Way Act 2000, the legislation is now clear that representations or objections to an order **must** include “particulars of the grounds relied on”. However it does not specify how detailed these grounds should be. As long as an objection gives a genuine reason, saying more than just ‘I object’, it will be considered to be ‘duly made’ (assuming it is submitted in time and in the correct form).
9. Where no such grounds are stated, the status of the author will be recorded as an ‘interested party’ rather than a ‘duly made’ objector. Interested parties are not offered the opportunity of being heard by an Inspector.
10. It is only “any person by whom a representation or objection has been **duly made** and not withdrawn” who may be offered an opportunity of being heard by a person appointed. Alternatively the Secretary of State (or his Inspector) may decide to cause a local inquiry or hearing to be held.
11. Thus it is essential that when opposed orders are submitted to the Secretary of State (through PINS on his behalf) the authority makes clear which of the objections or representations (if there is more than one) it regards as being duly made and those it does not (if any)³. Where there is only one objection, unless otherwise stated on submission to PINS, it will be assumed that the authority has accepted this as duly made (otherwise it would have confirmed the order as unopposed).
12. The Secretary of State (through PINS) will need to ascertain whether a duly made objection or representation is likely to be **relevant** to the decision on whether or not to confirm the order.
13. If none of the objection(s) contain matters which are **relevant** to the determination of the order, paragraph 7(2A) allows the Secretary of State the discretion not to call an inquiry or to offer the objector(s) a chance to be heard.
14. If the relevance (or irrelevance) of a duly made objection forwarded to PINS cannot be readily established (because the grounds are briefly stated), we will ask the objector for clarification of the nature of the objection⁴ within a reasonable timescale.
15. On receipt of clarification which reveals that the objection is likely to be relevant, the objector will be offered the opportunity to be heard by an Inspector, (unless for other reasons it has already been decided to arrange a local inquiry as provided under paragraph 7(2)(a)).

³ A representation or objection that is not duly made (or indeed a letter of support) may still be noted by the Inspector if it contains relevant information, but such objections or representations will not determine the procedures to be followed.

⁴ In the *Lasham* case (referred to above at Footnote 2) Potts J explained that the Secretary of State is entitled to consider the nature of the objection in deciding whether to hold a public inquiry or a hearing. The fact that an objection was irrelevant could inform his decision on what procedure to adopt.

16. Alternatively if, in our view, the objection appears to relate solely to matters that will not be relevant to the determination of the order, we will inform the objector accordingly and ask them whether they wish to maintain it or withdraw it, giving them the opportunity to modify the grounds of their objection⁵. We will do this before we decide upon the procedure to be followed.
17. Except where all objections/representations are considered irrelevant, and paragraph 7(2A) applies, irrelevant objections will not be disregarded unless they are formally withdrawn. Only objections on relevant grounds are likely to justify a public inquiry or hearing.

B. Under Schedule 6 of the Highways Act 1980 and Schedule 14 of the Town and Country Planning Act 1990

18. There is similarity between the statutory language used in Schedule 15 to the 1981 Act and that governing the procedures for the confirmation of public path orders (under paragraphs 1 and 2 of Schedule 6 to the Highways Act 1980) and orders made under section 257 of the Town and Country Planning Act 1990 (in Schedule 14 to that Act). However there are significant differences.
19. Neither the prescribed forms of notices under Schedule 6 sub-paragraph (1)(1) or Schedule 14 sub-paragraph (1)(1) make it mandatory for a representation or objection to a public path order to include the 'particulars of the grounds relied upon' in order to qualify as 'duly made'.
20. Again, it is for the order-making authority to decide whether a representation or objection is **duly made** so as to establish whether the order must be sent to the Secretary of State for confirmation or whether the authority itself can confirm it.
21. In relation to public path orders, authorities have the discretion not to proceed with opposed orders and may choose not to forward a case to the Secretary of State⁶ but instead to bring the procedure to a close by formal resolution.
22. For Highways Act orders, sub-paragraph (2)(1) of Schedule 6 enables either the Secretary of State or the order-making authority to confirm an order to which there remain no un-withdrawn duly made representations or objections. But if modifications to the order are required, only the Secretary of State may make, or propose such alterations and determine whether or not the order should be confirmed.
23. Similarly for Town and Country Planning Act orders, paragraph 2 of Schedule 14 empowers the order making authority to confirm (without modification) an order to which no un-withdrawn duly made objections remain.

⁵ In *Lasham*, Potts J also advised that the Secretary of State would be entitled to ask the person making the objection whether they wished to maintain it or withdraw it and give them the opportunity to modify the grounds. He would also be entitled to remind the objector of the power to award costs under paragraph 9 of Schedule 15 to the 1981 Act.

⁶ R (Hargrave & Hargrave) v Stroud DC (CA)(2002) EWCA Civ 1281

24. For orders made under both Acts, where duly made representations or objections are not withdrawn, the procedure to be followed mirrors that for objections made under Schedule 15 of the 1981 Act⁷ but with the difference that the procedures are not, generally, determined by the **relevance** of the objection (although this may be a consideration if an application for costs is made).

C. Objections to proposed modifications

25. Where notice is given by the Secretary of State (under paragraph 8 of Schedule 15 to the 1981 Act, paragraph 2(3) of Schedule 6 to the 1980 Act or paragraph 3(6) of Schedule 14 to the 1990 Act) of an Inspector proposing to modify an order, PINS will follow similar procedures to those set out above.
26. However, only those representations/objections which (a) are received by PINS within the time period specified in the statutory notice, (b) are submitted in the manner specified, for example, *in writing (or by email) to the Planning Inspectorate*, (c) relate to the modifications proposed by the Inspector⁸ and, in the case of orders made under the 1981 Act, (d) include particulars of the grounds relied on, will be regarded as being **duly made**.
27. Only a person who has submitted a 'duly made' objection to proposed modifications will be offered an opportunity to be heard by an Inspector.
28. Where modifications are proposed to 1981 Act orders, PINS takes the view that an objection or representation which states no more than "*I object to the order*" does not provide sufficient details to comply with the statutory requirements and therefore does not constitute a duly made objection, even if received by the relevant person within the deadline and in the prescribed format. On receipt of such an objection, PINS will advise the objector accordingly. However, there is nothing to prevent the objector submitting a second objection supported by 'particulars of grounds relied upon' if this can be done within the published timescale and thereby lodge a duly-made objection.
29. Where the relevance of a duly-made objection to proposed modifications to a 1981 Act order cannot be easily established from the particulars submitted by the objector, PINS will follow the procedure as set out in paragraphs 14-16 above.

Further guidance

30. Further details can be found in the Planning Inspectorate's booklet: 'Guidance on procedures for considering objections to Definitive Map and Public Path Orders in England'
<https://www.gov.uk/government/publications/rights-of-way-guidance-booklet>.

⁷ Except that where an objection is made by a local authority (and, in the case of 1990 Act orders, a national park authority) an inquiry will be arranged in all cases.

⁸ *Marriott v Secretary of State for the Environment, Transport and the Regions (2000)*

31. To access 'Guidance on procedures for considering objections to Definitive Map and Public Path Orders in Wales', please ensure you switch to the Wales site.
<https://gov.wales/topics/environmentcountryside/consmanagement/rights-of-way-and-wider-access/countryside-area>.
32. The Rights of Way Privacy Statement can be found at
<https://www.gov.uk/government/publications/rights-of-way-guidance-booklet>.